

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

HEARING ON MOTION FOR PRELIMINARY INJUNCTION
AS TO SENATE DISTRICT 10
BEFORE THE HONORABLE DAVID C. GUADERRAMA,
HONORABLE JERRY E. SMITH
AND HONORABLE JEFFREY V. BROWN
VOLUME 6 (AM SESSION) OF 9 VOLUMES

APPEARANCES:

FOR THE PLAINTIFFS ROY CHARLES BROOKS, FELIPE GUTIERREZ,
PHYLLIS GOINES, EVA BONILLA, CLARA FAULKNER, DEBORAH
SPELL, BEVERLY POWELL:

Mr. Chad W. Dunn
Brazil & Dunn
4407 Bee Caves Road
Building 1, Suite 111
Austin, Texas 78746
(512) 717-9822
and

18 Mr. Mark P. Gaber
Mark P. Gaber, PLLC
19 P.O. Box 34481
Washington, DC 20043
20 (715) 482-4066
and

21 Ms. Molly Elizabeth Danahy
Molly E. Danahy, Esq
22 P.O. Box 26277
Baltimore, Maryland 21210
23 (208) 301-1202

1 **APPEARANCES (continued) :**

2 **FOR THE PLAINTIFFS ROY CHARLES BROOKS, FELIPE GUTIERREZ,
3 PHYLLIS GOINES, EVA BONILLA, CLARA FAULKNER, DEBORAH
4 SPELL, BEVERLY POWELL:**

5 Ms. Sonni Waknin
6 Sonni Waknin, Esq
7 10300 Venice Boulevard, Apartment 204
8 Culver City, California 90095
9 (723) 610-1283

10 and
11 Mr. Jesse Gaines
12 Jesse L. Gaines Attorney at Law
13 P.O. Box 50093
14 Fort Worth, Texas 76103
15 (817) 714-9988

16 **FOR THE DEFENDANTS GREG ABBOTT, JOHN SCOTT, JOSE A.
17 ESPARZA, STATE OF TEXAS, TEXAS LIEUTENANT GOVERNOR DAN
18 PATRICK AND TEXAS SPEAKER DADE PHELAN:**

19 Mr. Patrick K. Sweeten
20 Mr. Christopher D. Hilton
21 Mr. Eric Hudson
22 Mr. William Thomas Thompson
23 Ms. Kathleen Hunker
24 Ms. Courtney Brooke Corbello
25 Mr. Jack Buckley DiSorbo
1 Office of Texas Attorney General
2 P.O. Box 12548
3 MC 009
4 Austin, Texas 78711
5 (512) 463-4139

6 **ALSO PRESENT:**

7 Mr. Brian Christopher

8 Court Reporter:
9 Laura Wells, RPR, RMR, CRR
10 601 Rosenberg, Suite 615
11 Galveston, Texas 77550

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VOLUME 6
**(HEARING ON MOTION FOR PRELIMINARY INJUNCTION
AS TO SENATE DISTRICT 10)**

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1 | PROCEEDINGS

2 (Call to order of the Court.)

3 JUDGE GUADERRAMA: Good morning, everyone.

4 | Please be seated.

08:58:42 5 Mr. Sweeten, will you be making an opening statement?

6 MR. SWEETEN: Yes, Your Honor. I'll give a brief
7 opening.

8 Your Honors, before I get started, I wanted to go
9 ahead and offer Defendants' Exhibits 1 through 70. And I
0 think counsel has some objections to some of those
1 exhibits. But I think, as the Court did with the
2 plaintiffs, I think you conditionally admitted them
3 subject to deciding the disputed evidentiary issues; is
4 that correct?

08:59:20 15 JUDGE GUADERRAMA: Mr. Dunn, let me hear from
16 you.

17 MR. DUNN: I think handling the exhibits
18 consistently makes sense. So admission subject to
19 objection is fine with us.

08:59:32 20 JUDGE GUADERRAMA: All right. That will be the
21 Court's ruling. Thank you.

22 MR. SWEETEN: Thank you. May it please the
23 Court, I'm going to give a brief opening statement today.
24 I just want to outline the defense's case. We're going to
25 be -- today we're going to have -- Senator Huffman will be

1 up later. We'll have Professor Alford to testify, as
2 well. We'll have testimony from a county election
3 administrator on videotape, two of them, in fact, one for
4 30 minutes, one for 45. And then the director of
5 elections Keith Ingram. So that's what the day is going
6 to look like.

7 I wanted to start by just -- by looking at Slide 2, if
8 we could. The plaintiffs' theory in this case is that the
9 Senate majority drew Senate District 10 within Plan S-2168
09:00:17 10 to intentionally discriminate against African-Americans
11 and Latinos.

12 So the question before the Court, as it's framed, is:
13 Did the legislature purposely discriminate when they drew
14 the Senate maps, in particular Senate District 10?

09:00:30 15 The Brooks' theory is false. You will hear more about
16 the reasons for that today, but the Texas Legislature drew
17 Senate District 10 and the entire Senate map with the
18 intention of passing legal maps that advanced partisan
19 motives and other factors described on the floor.

09:00:47 20 The Senate map lines were drawn without regard to
21 race. That is clearly articulated on the floor, and we'll
22 show the Court those transcripts today from the
23 legislative session.

24 We start with the proposition that -- on Slide 4, if
09:01:02 25 we would -- that the good faith of a State legislature

1 must be presumed. That's *Miller v. Johnson*.

2 On the next, the *Abbott v. Perez* case, the Supreme
3 Court said that in assessing the sufficiency of a
4 challenge to a districting plan, a court must be sensitive
5 to the complex interplay of forces that enter a
6 legislature's redistricting calculus, and the good faith
7 of the State legislature must be presumed.

8 Now, it's the case that partisan motives are not
9 racial motives. The Court very recently said that in
10 *Brnovich*.

11 And the Court has also said that alleged knowledge of
12 racial effects, that prior decisions have made clear that
13 a jurisdiction may engage in constitutional political
14 gerrymandering even if it so happens that the most loyal
15 Democrats happen to be Black Democrats and even if the
16 State were conscious of that fact.

17 Finally, one other standard -- and then I'll talk a
18 little bit about the legislative session -- is that under
19 *Personnel Administrators of Massachusetts*, the way that
20 discriminatory purpose has been framed -- and it's been
21 cited multiple times over the years -- but it implies more
22 than intent, as volition or intent as awareness of
23 consequences. It implies that the decision-maker selected
24 or reaffirmed a particular course of action at least in
25 part because of, not merely in spite of, its adverse

1 effects upon an identifiable group.

2 So we started the 2021 legislative session -- if we
3 could go to Slide 10 -- with the balance of power tilting
4 the needle trending Republican. As it has since the
5 mid-'90s, Republicans hold the statewide offices in this
6 state, including the governorship, including the
7 lieutenant governorship.

8 In addition, the people elected a House majority of
9 Republicans of 85 and 65 was the -- was the
10 Republican/Democratic split.

11 And the Senate majority was 18:13 Republican.

12 Now, I'm going to walk the Court through -- and the
13 Court has heard some testimony already about -- some of
14 the timelines that occurred in the Senate redistricting
15 process.

16 First of all, as Mr. Turner said yesterday, the Census
17 Bureau has never delivered the census data this late. The
18 Census Bureau was supposed to release the census data in
19 April of 2021. It did not until August 12th, 2021, when
20 an initial redistricting data was released. And then,
21 finally, the full redistricting tool kit was released on
22 September 16th.

23 If we could go to Slide 12.

24 The third special session, in response to the
25 unprecedented delays in the census data, Governor Abbott

1 called what was then a third special session on
2 September 7th of this year -- of 2021. And then on
3 September 20th through October 19th, the third special
4 session was held.

09:04:03 5 As the Court knows, a special session as a limited
6 duration of 30 days; and the legislature had four maps to
7 pass.

8 Now, an overlay to all of this, this unprecedented
9 delay in the census, was that without warning, without
09:04:19 10 informing the Republicans that they were going to do so,
11 the Democrats left during the legislative session in the
12 summer. They went out of state. They went to -- to the
13 D.C. -- they went to D.C. for four weeks, which -- and you
14 heard in the questioning that that basically stopped the
09:04:38 15 wheels of the legislative process.

16 Now, if you think about that, if you think about the
17 deadlines, the elections that are, you know, just weeks
18 away now and all the things that had to occur before the
19 election -- and there will be testimony on that that
09:04:54 20 you'll hear -- you can see that even -- I mean, with the
21 truncated deadline that we had, the legislature also was
22 dealing with the fact that the parachute, the rip cord
23 could be pulled at any time.

24 They could -- they could leave in the dead of night
09:05:08 25 again, leave the state; and because there wasn't a

1 supermajority in the Republican legislature, the State
2 would then be left, because the census data had come out
3 in September, the State would then be left with few
4 options to deal with what would be then malapportionment
5 claims that were filed.
09:05:26

6 In fact, one, the Gutierrez plaintiffs, actually part
7 of their filing was a claim that the State maps were
8 malapportioned. And, of course, based on ten years of
9 growth that had occurred over that period, you know, the
10 State needed to get maps in place because what would be
11 next in a malapportionment case, if the legislature were
12 not able to generate those four maps, is they would then
13 come and ask the federal court to draw those maps.
09:05:39

14 And, of course, there is a legion of cases that talks
15 about that redistricting is the province of the
16 legislature. There is a strong -- there is a strong line
17 of cases that talk about that.
09:05:55

18 So, at any rate, with all of these factors going on,
19 I'm going to run through some of the timeline of the
20 session which occurred -- which again began on
21 September 20th.
09:06:09

22 So on Slide 14 you'll see that prior to the third
23 special session, the Special Senate Committee on
24 Redistricting held hearings that solicited public input.
25 And, in fact, one of the statements made in the
09:06:23

1 Redistricting Committee on September 7th from Senator
2 Whitmire, he says, "And I have looked at our schedule for
3 this week. You're certainly giving the public ample
4 opportunity to testify, including evening hours and
5 weekends. It occurred to me that you are doing such a
6 fine job."

7 On September 20th, Senate Bill 4, which was
8 implemented, originated in the Senate and it's referred to
9 the Senate Special Committee on Redistricting.

10 Then from September 20th to October 4th the -- the
11 Senate Bill 4 was considered and passed out of the Senate
12 on the 4th.

13 Now -- so it passed out with a vote of more than just
14 an R/D split but at 20:11 was the vote for Senate Bill 4.

15 On October 15th, 2021, the House passed SB-4; and then
16 ultimately SB-4, along with many of the other
17 redistricting bills, was signed by Governor Abbott on
18 2021.

19 The Brooks plaintiffs then filed their initial
20 complaint just eight days after that. And the -- and, of
21 course, another deadline that I think we have talked about
22 some was that November 12th was the candidate filing
23 window opened.

24 So redistricting lines needed to be drawn in order to
25 conduct the election so candidates would know where they

1 were going to be or where they were going to be running.

2 Let's talk a little bit about Senate District 10.

3 I'll start with the -- with the statement that Tarrant

4 County is a Republican county. Most of the major Tarrant

5 County-wide officeholders are Republican. County Judge

6 Glen Whitley, the Sheriff Billy Wayborne, and DA Sharon

7 Wilson, Tarrant County clerk, all of them are Republicans.

8 And as Mr. Brooks said yesterday on the stand, Tarrant

9 County is predominantly Republican.

10 Now, there is an important exhibit here because this

11 is kind of -- this has kind of been a shifting -- these

12 allegations on this issue have been shifting. But I think

13 it's very important that this Court know that Defendants'

14 Exhibit Number 22 has the CVAP numbers, the most updated

15 CVAP numbers for the benchmark District 10. And those

16 numbers show that almost 54 percent of the population of

17 Senate District 10 was Anglo, 20.4 percent was Hispanic,

18 and 20.5 percent were African-American.

19 We have also talked some and you heard from some of

20 the witnesses and you'll -- and you'll see in Defendants'

21 Exhibit Number 17 that Senate District 10 is a very

22 competitive district. Three of the last six Senate

23 district candidates were Republican -- or winners were

24 Republican. And three of the last four elections in SD-10

25 had been decided by a spread of three percent or less.

1 The legislature wanted to maintain a Republican
2 representative for a historically Republican Senate
3 district. Senator Powell was elected on a wave election
4 during a time with one of the closest election spreads
5 that we have seen in recent years with the Beto/Cruz --
6 with the Beto O'Rourke and Ted Cruz race. And many of the
7 statewide races were very, very close.

8 Now, we showed you the clip yesterday of the colloquy
9 between Senator West and Senator Powell. I think it bears
09:10:00 10 repeating, though. And that is that Senator West asked
11 Senator Powell -- and this is in Exhibit 64, which is the
12 transcript of the Senate floor debate from October 4,
13 2021 -- he says, "Let's get this on the record. Do you
14 believe that your district is intentionally targeted for
09:10:16 15 elimination as it being a trending Democratic district?"

16 "Absolutely. Absolutely." That's what she said.

17 She also says, "And it goes back to a question that
18 Chairman Huffman asked me the day that we had our meeting.
19 When I sat down and she put the proposed map up and onto
09:10:35 20 the screen, she said, 'Do you have any questions for me?'
21 And I answered to her, no, I have no questions because I
22 can clearly see by this map what you are attempting to
23 do."

24 It was clear to Senator Powell that she was being
09:10:48 25 redistricted and targeted because she was a Democrat, that

1 that seat had been changed because it was a -- because she
2 was a Democratic freshman member and the Republicans, you
3 know, had the majority and were able to make that into a
4 Republican seat.

09:11:04 5 Other senators acknowledged the same thing. You saw
6 yesterday in the examination of Senator Powell,
7 Defendants' Exhibit Number 27, where Senator Nathan
8 Johnson, a Democrat from the Dallas area, he says that,
9 "The proposed maps under CSSB do exactly what they were
09:11:21 10 intended to do. They make districts more partisan and, if
11 not invalidated by a court challenge, they effectively
12 eliminate a Democratic seat."

13 So it was clear to Powell. It was clear to Nathan
14 Johnson. They were saying these things on the floor.
09:11:41 15 Other legislators acknowledged the same. And in his
16 testimony yesterday, unsurprisingly, Representative Turner
17 explained that he wants Democrats to win and Republicans
18 to lose; not an earth-shattering proposition for any
19 member of a party involved in redistricting.

09:11:59 20 Now, I want to talk a little bit -- if we could go to
21 Slide Number 24. This is Defendants' Exhibit Number 2.
22 And I want to just show the Court very briefly that --
23 this is in the binders that we have submitted to the
24 Court. It's probably a better look because the TV screens
09:12:13 25 are not very big. But this is a partisan shading map.

1 This is what SD-10 looked like in the benchmark plan.

2 What this shows is shading by partisanship, not by
3 race. Okay. This is how it looks. So the blue-shaded
4 area stands for 57 percent or higher Democratic VTDs; and
5 as the Court knows, VTDs are voting tabulation districts.
6 And so to alter the district to increase Republican
7 performance, they needed to identify the location of
8 Democratic-leaning areas.

9 Now, this is also part of Defendants' Exhibit Number
10 3; and in these partisan shading maps the legislature saw
11 many of those blue areas with 57-plus Democrats and it
12 removed some of those areas. It did not do so based on
13 race. It did so based on partisanship, as Senator Huffman
14 testified to at length. She was questioned extensively on
15 the floor, and she was very specific in her testimony that
16 she did not utilize racial data when drawing the lines of
17 the map.

18 Now there is another slide. It's Defendants' Exhibit
19 Number 3, and this is Slide 26. So the exhibit is 3. The
20 slide is 26. This is what the new SD-10 looks like from a
21 partisan standpoint. You can see that other counties were
22 joined with the -- with the Tarrant County configuration.
23 These red areas represent Republican counties. The
24 blackout line that you can see there is the new SD-10.
25 And so, as you can see, the number of Republican areas

1 were increased in order to make SD-10 a more Republican
2 district.

3 Again, that's just partisan shading. That's just
4 partisan shading. That's what you see when you are
5 looking at partisan shading.

6 So let's look now, if we could go to Slide 27, which
7 is Defendants' Exhibit Number 5 that the Court has. This
8 shows which areas were added and which ones were taken
9 away.

10 Now, the areas that are in red, the ones that were
11 taken away, predominantly voted Democratic. Green are the
12 areas that were added. And yellow is what remained in the
13 district.

14 Now, as you can see, the percentages of green, areas
15 added, are much more Republican than the areas that were
16 taken out. And the areas taken out are much more
17 Democratic.

18 And there is a compilation on this next slide, which
19 is Slide 28. This is contained in Defendants' Exhibit
20 Number 5. And it shows it -- what it does is it tallies
21 those numbers from the map before. But as you can see,
22 they added 108,753 Republicans; and they subtracted
23 119,000 Democrats.

24 Now, if we could go to 29 -- and I have alluded to
25 this but -- and this is also part of some of the testimony

1 yesterday. But in Defendants' Exhibit Number 64, Senator
2 Powell asked, "In terms of data that you consulted,
3 RedAppl has a statistics tab that allows the user" --
4 pardon me -- "to choose which electoral and demographic
5 data to display on the screen while the map is being
6 drawn; is that correct?"

7 Senator Huffman on the floor said several things. She
8 said, "Correct. Yes." And then she later, at the end she
9 says, "One thing we've never had was racial shading."

09:15:29 10 Again, that's Defendants' Exhibit Number 64.

11 When expressly asked, Senator Powell failed to
12 identify a single senator who acted with discriminatory
13 intent yesterday. She was not able to do so. She
14 testified that she has no knowledge whether racial shading
09:15:46 15 was ever used. She said that yesterday in her trial
16 testimony.

17 On Slide 32 we have got, from the affidavit of Todd
18 Giberson, that "Data regarding race, ethnicity,
19 Spanish-surname status, voting age population, and number
09:16:05 20 of registered voters is not displayed unless the user
21 actively chooses to display it." And that's consistent
22 with some of the testimony that we have heard over the
23 last two days.

24 Now, there was also a colloquy between Senator Huffman
09:16:20 25 during the October 4th Senate floor debate. Senator

1 Eckhardt, who is the Austin Democratic senator, who is now
2 in Senator Watson's old seat, said, "You had mentioned and
3 have been very assiduous about this that you are
4 color-blind in your dealings with the map."

09:16:39 5 Senator Huffman, again, "Yes, ma'am."

6 So it's also the case that Senator Powell yesterday
7 testified that taking out Democratic Anglo VTDs is not
8 discriminatory. She herself admitted that.

9 And I want to show the Court the next slide, which is
10 Slide 35; and this is in Defendants' Exhibit Number 1,
11 this map, except for the fact that we have drawn for
12 demonstrative purposes these circles.

13 But the areas that are shaded are areas that vote
14 Democratic. So purple are the areas where a race of over
09:17:18 15 50 percent predominate -- or does not predominate. Sorry.
16 And this shows that the drawer of the map had the primary
17 intention of removing Democratic voters. As you can see
18 in those circles, those are -- those are Democratic
19 districts that were shaded Anglo.

20 So we went through testimony over the last several
21 days. There is no direct knowledge of discriminatory
22 purpose. You heard the witnesses testify about that. And
23 they have admitted they have no personal knowledge of any
24 evidence of discriminatory intent.

09:17:51 25 The plaintiffs utilized an affidavit of Senator

1 Seliger. We had the opportunity to take the deposition of
2 Senator Seliger, and he testified that Senator Huffman
3 gave a pretextual reason for the composition of one
4 district, SD-31. He did not say SD-10 in the testimony.

09:18:10 5 There is an important factor about this case. You
6 often hear attacks made against maps by saying, well, you
7 split VTDs. And that's important because if you split
8 VTDs, you know, it has been argued by some that, well, you
9 can't get partisanship data below the VTD level, at the
09:18:31 10 lowest level.

11 The Senate map splits no VTDs. So there is not a
12 single one split. So that argument which we heard a lot
13 ten years ago in the past redistricting, you know, falls
14 flat in this attack on the Senate map.

09:18:45 15 Now, neither Senator Powell nor Representative Turner
16 testified to knowledge of racially discriminatory
17 statements. I think that's important. I mean, there were
18 opportunities on the floor for, you know, the senators to
19 grill one another. You know, the session, you know, was
09:19:03 20 contested on several issues. But neither testified of any
21 statements made regarding racially discriminatory matters.

22 Let's go to Slide 40. There is no direct evidence
23 that supports the proposition that the Senate majority had
24 knowledge of any adverse effects on African-Americans or
09:19:23 25 Latinos when the lines of the maps were drawn. I'll show

1 you Hunt again. We can -- we can move on from that.

2 That's duplicated.

3 If we could go now to Slide 42. The *Fusilier* case
4 says, "Discriminatory intent requires that the
5 legislature, quote, selected or reaffirmed a particular
6 course of action, at least in part because of, not merely
7 in spite of, its adverse effects upon an identifiable
8 group."

9 It's a Fifth Circuit case. It's one of the many cases
09:19:55 10 that quotes the *Personnel Administrator of Massachusetts*
11 v. *Feeney* standards for intentional discrimination.

12 I want to talk just briefly about Dr. Barreto's
13 testimony. And Dr. Alford will be here today to testify
14 to this Court. He purports to conclude that Latinos and
09:20:12 15 African-Americans in SD-10 have the same candidate of
16 choice, but he improperly disregarded primary elections as
17 totally irrelevant.

18 Professor Alford will be here to explain to this Court
19 the relevance of including primary elections and assessing
09:20:26 20 claims of cohesion, and primary elections evidence will
21 show that Latino and African-American voters support
22 different candidates. There are multiple races that have
23 been run in the boundaries within SD-10 where you have
24 racially contested elections and where that data gives
09:20:44 25 insight as to where Latinos and African-Americans and how

1 they are voting in primary elections. Dr. Alford will
2 explain that at length and why that is important.

3 Very briefly, on Dr. Cortina's testimony it's -- you
4 know, Dr. Alford will testify and Cortina admits that he
5 didn't consider a single partisan objective or consult
6 with a single member of the legislature.

7 He purports to conclude that plaintiffs' alternative
8 Map 4 is better for Republicans than the enacted Plan
9 S-2168, but he admits his analysis is limited to the
10 margin of victory in statewide races. And he gives no
11 reason for his decision to use 10 percent as the metric.

12 Dr. Alford will discuss those issues with
13 Dr. Cortina's report; but I think it's important, you
14 know, to couch I think Dr. Cortina's primary opinion given
15 to this Court is about an alternative map. He clearly
16 said that he had no -- that he was not asked to nor did he
17 provide an opinion on discriminatory intent.

18 On paragraph -- on Slide 45, even assuming that the
19 Brooks plaintiffs could succeed on the merits, which they
20 cannot, injunctive relief would still be inappropriate
21 because this election is underway.

22 Now, the -- if we can go to Slide 46, we are going to
23 have witnesses for you to testify about this point. We
24 have the videotaped deposition of a small county election
25 administrator, Staci Decker. We have the opinion of an

1 over-million-population county here to testify by
2 videotape, also, Bruce Sherbet. And then we have the
3 Texas Director of Elections Keith Ingram.

4 They will testify that changes to the election at this
5 late date would be catastrophic, cause massive voter
6 confusion, increase the likelihood of election errors and
7 impose substantial burdens on state administrators.

8 Plaintiffs have failed to offer in their direct case a
9 single witness to testify to this Court to address these
09:22:29 10 issues. This is -- we have three witnesses that are going
11 to testify about the massive consequences. Of course,
12 this relates to the multiple factors, but balance of
13 equities being one of those, and the massive consequences
14 that would be caused by any sort of delay or change in the
09:23:03 15 election schedule right now. You'll hear from them today
16 and early tomorrow.

17 And the primary elections are underway. The Supreme
18 Court in a recent opinion written by Justice Blacklock --
19 and it was, actually, I think three weeks ago. It was
09:23:22 20 decided on January the 6th -- the Court's opinion
21 indicated that no amount of expedited briefing or judicial
22 expediency at this point can change the fact that the
23 primary election for 2022 is already in its early stages.

24 It's important to note that in that decision our -- we
09:23:43 25 had defended the State in a PI in state court in December.

1 And there is a -- in the opinion, the Court looks at those
2 very affidavits that -- some of them that we have provided
3 this Court -- and found those to be credible and a reason
4 why the Court couldn't decide at this late date to make
5 any change to the election. That was a Texas Supreme
6 Court persuasive authority, a recent decision from three
7 weeks ago saying it would be too late.

8 Of course, the *Purcell* Principle was -- this is a case
9 that was decided in the Supreme Court in 2006. "Court
09:24:19 10 orders affecting elections, especially conflicting orders,
11 can themselves result in voter confusion and consequent
12 incentive to remain away from the polls. As an election
13 draws closer, that risk will increase," said the Supreme
14 Court.

09:24:33 15 And so there is this whole other doctrine which is,
16 you know, even if, you know, there were liability found in
17 a preliminary injunction, there is this whole other
18 calculus that we don't make changes, you know, prior to an
19 election because the -- because the risk of doing so, it
09:24:50 20 can have -- can cause way more harm than the actual --
21 than the harm.

22 And this is a principle that's been further elucidated
23 in *RNC v. DNC* just in 2020. So we have the Texas Supreme
24 Court case. We have *Purcell*. We have *RNC v. DNC*. But
09:25:11 25 more importantly, we have the evidence, the uncontested

1 evidence of the election administrators in statewide,
2 large county, small county, that will testify to this
3 Court that the -- that moving the election, making any
4 sort of alterations would be highly damaging.

09:25:29 5 I thank the Court for your time, and we'll go ahead
6 and call Senator Joan Huffman.

7 MR. DUNN: Your Honor, while the witness appears,
8 I just want to restate for the record we understand the
9 Court's ruling on privilege yesterday but we don't want to
09:25:50 10 have been seen as waiving something. So we renew our
11 objection.

12 Our position is by merely testifying here today she is
13 waiving her legislative privilege and that this -- that to
14 the extent that she can testify today only to public
09:26:03 15 statements, it's cumulative and duplicative testimony and
16 violates Federal Rule of Evidence 403.

17 But again, I understand the Court's ruling, and we're
18 prepared to proceed.

19 JUDGE GUADERRAMA: Good morning, Senator.

09:26:35 20 SENATOR HUFFMAN: Your Honors, good morning.

21 JUDGE GUADERRAMA: If you will raise your hand to
22 be sworn.

23 SENATOR HUFFMAN: (Complying.)

24 JUDGE GUADERRAMA: Do you solemnly swear or
25 affirm the testimony you are about to give in this cause

1 now on trial before the Court will be the truth, the whole
2 truth, and nothing but the truth so help you God?

3 THE WITNESS: I do.

4 JUDGE GUADERRAMA: Thank you, ma'am. If you
09:26:45 5 would have a seat.

6 THE WITNESS: Right here?

7 JUDGE GUADERRAMA: Yes, ma'am.

8 THE WITNESS: All right.

9 **SENATOR CECILIA JOAN HUFFMAN,**

10 having been first duly sworn, testified as follows:

11 **DIRECT EXAMINATION**

12 BY MR. HILTON:

13 Q. Good morning, Senator. How are you?

14 A. Good morning. Fine. Thank you.

15 Q. Can you please state your name for the record.

16 A. My full name is Cecilia Joan Huffman, but I go by
17 Joan.

18 Q. And I just want to start with some of your background
19 and have you introduce yourself to the Court and for the
09:27:10 20 record.

21 A. Yes.

22 Q. Could you start maybe by telling us where you were
23 born and where you grew up?

24 A. Yes. I was born in New Iberia, Louisiana. I was
09:27:19 25 raised there. We lived a short time in Venezuela and

1 South America. I went to middle school and high school in
2 Louisiana. I graduated from Mount Carmel Academy, an
3 all-girls Catholic school in New Iberia.

4 JUDGE GUADERRAMA: Mr. Hilton, will you just
09:27:34 5 identify yourself for the record, please.

6 MR. HILTON: I apologize, Your Honor. Chris
7 Hilton for the State.

8 JUDGE GUADERRAMA: Thank you.

9 BY MR. HILTON:

09:27:41 10 Q. Thank you, Senator. After high school, did you go to
11 college?

12 A. I did.

13 Q. Where did you go?

14 A. I graduated from Louisiana State University, LSU, in
09:27:49 15 Baton Rouge.

16 Q. And what did you study?

17 A. I majored in history and football games.

18 Q. Geaux Tigers. What did you do after college?

19 A. I went to law school at LSU for about a year, and then
09:28:05 20 I moved to Texas and got a job at the Harris County
21 District Attorney's office as a secretary. I worked as a
22 secretary for about a year and then decided to go back to
23 law school, applied to South Texas College of Law and then
24 worked at -- continued to work at the district attorney's
09:28:25 25 office while going to night school at South Texas. And

1 then once I graduated from law school at South Texas, I
2 took the bar and then was hired at the district attorney's
3 office in Harris County as a prosecutor.

4 **Q.** What motivated you to go to law school in the first
09:28:42 5 place and then go back at night while working full-time?

6 **A.** Well, when I first started at LSU, I, like many young
7 people, wasn't sure what I wanted to do. After I started
8 law school, I realized I didn't want to stay in Louisiana.
9 I wanted to move to Texas. And as we know, Louisiana law
09:28:58 10 is a bit different than the rest of the common law states.

11 And so when I went back to Texas, I didn't -- you
12 know, I got a job as a secretary. I could type and, you
13 know, I had some legal qualifications; so they hired me at
14 the DA's office.

09:29:14 15 And then, as I watched the work of the prosecutors, I
16 decided that's what I really wanted to do. So I was
17 motivated to go ahead and finish law school at that time.

18 **Q.** And so tell the Court a little bit about your career
19 and your work as a prosecutor.

09:29:25 20 **A.** Well, like all the prosecutors, I started out at the
21 misdemeanor level. I worked myself up over the years to
22 chief felony prosecutor. You know, we tried over 100 jury
23 trials from aggravated sexual assaults of children to
24 capital murders, several capital murder cases.

09:29:44 25 I served 18 months at the Organized Crime Narcotics

1 Task Force as their legal counsel where I worked, you
2 know, at the site of the task force with a bunch of
3 federal officers and state and local officers on organized
4 crime issues.

09:30:03 5 **Q.** How long did you work as a prosecutor, approximately?
6 And then what was the next chapter of your career after
7 that?

09:30:17 8 **A.** I think it was about 15 years. And then I became
9 pregnant with my only child, when I was a little older, I
10 had when I was 41. And so I wanted to take it a little
11 easy, and I ended up taking some time off. And then I
12 decided to run for a criminal district court bench in
13 Harris County at that time.

14 **Q.** And when did you first run for the -- you know, run
09:30:36 15 for the bench and how long did you serve as a judge?

16 **A.** I think it was 1999. And I served a term and a half,
17 resigned in the middle of my second term, again, because I
18 had obligations at home as a mother that I wanted to
19 attend to; and I did that. So I served -- it was -- it
09:30:54 20 may have been seven years, but I want to say six or seven
21 years.

22 **Q.** What was your docket like as a criminal district
23 judge? I imagine similar to your docket as a prosecutor?

24 **A.** Yes. It was very heavy. It was in Harris County.
09:31:06 25 There were quite a few cases daily that we dealt with,

1 lots of jury trials, lots of hearings and every day pleas,
2 pleas of guilty, and so forth. So it was a very -- it was
3 a very busy schedule.

4 **Q.** And so while you were a practicing attorney and while
09:31:19 5 you were a judge, did you ever work in any civil law
6 fields?

7 **A.** I have never worked in the civil arena.

8 **Q.** After you retired from being a judge, you decided to
9 pursue a career in a different branch of government?

10 **A.** Correct.

11 **Q.** Tell the Court about your decision to run for the
12 Senate.

13 **A.** Well, a Senate seat came open in Senate District 17.
14 Many of you who follow politics know it's fairly rare for
09:31:47 15 a Senate seat -- for someone to resign in the middle of
16 their term and for there to be an open seat. And I became
17 aware that that seat was open.

18 I had never thought about, you know, running for that
19 type of office. But once I thought about it, I thought
09:32:03 20 about my qualifications and that I had a desire to serve;
21 my son was a little older then; I had a very supportive
22 husband. And with a supportive family, it's easier to do
23 that and I decided to make a run for it. I was not the
24 preferred candidate, but I was able to ultimately win that
09:32:21 25 election.

1 **Q.** And what year were you first elected to the Senate?

2 **A.** That would be in 2008.

3 **Q.** And you have served continuously in the Senate since
4 then?

09:32:32 **A.** Yes.

6 **Q.** Can you please give the Court -- it doesn't need to be
7 an exhaustive list but a flavor for some of the committees
8 you have served on and any chairships that you have had?

9 **A.** Yes. I served -- and, again, this won't be
10 all-inclusive because I can't recall completely. But I
11 served on the Health and Human Services Committee over the
12 years, the Administrative Committee, the Higher Education
13 Committee, State Affairs. I have been Vice-Chair of
14 Criminal Justice for several sessions. I served as Chair
09:33:04 15 of State Affairs for several sessions. This last session
16 I was Chair of Jurisprudence, as well as Chair of
17 Redistricting -- the Redistricting Committee. And now the
18 Chair of Finance.

19 **Q.** And you mentioned Chair of the Senate Special
09:33:22 20 Committee on Redistricting --

21 **A.** Yes.

22 **Q.** -- in 2021. Had you previously served on a
23 redistricting committee?

24 **A.** I had back -- on the last redistricting cycle, I
09:33:31 25 served as a member of that committee when Lieutenant

1 Governor Dewhurst was then the Lieutenant Governor.

2 **Q.** Was that in 2013?

3 **A.** I think so, but it may have been 2011 as well. I
4 can't really recall.

09:33:44 5 **Q.** But you said you were just a member? You weren't a
6 chair?

7 **A.** Correct. Yes.

8 **Q.** When were you named as Chair of the Senate Special
9 Committee on Redistricting for 2021?

09:33:56 10 **A.** I believe it would have been in the early summer of
11 2019 after the regular -- we concluded the regular session
12 in May of 2019. So probably June or July of 2019.

13 **Q.** And has that committee disbanded?

14 **A.** It is not an active committee. I don't know if
09:34:15 15 "disbanded" is the exact correct word, but it's not an
16 operational committee.

17 **Q.** So maybe a better question is: What is the current
18 status of that committee?

19 **A.** It's -- I believe it's just not active. It's not
09:34:28 20 meeting and -- yeah.

21 **Q.** Well, thank you, Senator Huffman, for going through
22 your background with us.

23 Before we go into the substance of your testimony
24 today, as you may have heard when you were walking in,
09:34:42 25 there were some objections regarding legislative

1 privilege. We had some conversations with the Court last
2 night. The Court made some determinations about how today
3 is going to go.

4 And so I just want to go over everything with you and
5 make sure you understand it and make sure opposing counsel
6 and the Court believes that I have correctly stated how we
7 are going to proceed today.

8 First, let's confirm, do you intend to assert your
9 legislative privilege today?

10 **A.** Yes.

11 **Q.** Okay. Do you intend to assert it to the fullest
12 extent permitted by law regarding all your legislative
13 acts?

14 **A.** Yes.

15 **Q.** Do you intend to assert it regarding inquiry into your
16 mental impressions related to legislation, including your
17 motivations in drafting and considering legislation and
18 any materials you considered? Do you intend to assert the
19 privilege with respect to that line of inquiry?

20 **A.** Yes.

21 **Q.** Do you intend to assert it regarding your
22 communications with other legislators?

23 **A.** Yes.

24 **Q.** Do you intend to assert it regarding your
25 communications with your staff and other legislative

1 staff?

2 **A.** Yes.

3 **Q.** Do you understand that your public statements,
4 including statements that you made in the Senate chamber
5 during committee or during floor debate, are part of the
6 public record and those statements themselves are not
7 protected by the legislative privilege?

8 **A.** Yes. I do understand.

9 **Q.** Okay. At no point today will I ask you a question
10 that is intended to get at any privileged material. And
11 if I inadvertently ask you a question that you believe
12 does call for privileged information in the response,
13 please say so; and I'll withdraw or rephrase the question.

14 **A.** All right. Thank you.

15 **Q.** Do you understand that?

16 **A.** Yes, I do.

17 **Q.** The Court has determined that you may testify as to
18 non-privileged matters and that you may testify in
19 reference to and affirm your public statements without
20 waiving your privilege. Do you understand the Court's
21 ruling?

22 **A.** Yes.

23 **Q.** And if you go beyond your public statements or if you
24 reveal any privileged information, the Court may find that
25 you have waived your legislative privilege regarding that

1 privileged conversation or mental impression. Do you
2 understand that?

3 **A.** I do.

4 **Q.** Now, Mr. Dunn may object to my questioning, and he may
5 alert the Court that he thinks a question I have asked
6 will result in an answer that constitutes a waiver of
7 legislative privilege. So whenever I ask you a question,
8 I ask that you give time for Mr. Dunn to lodge an
9 objection if he feels like he needs to do that.

10 **A.** Yes, I will.

11 **Q.** And if that happens, it may be necessary for the Court
12 to make a ruling on the objection; and I may withdraw or
13 rephrase the question. All right?

14 **A.** Yes.

15 **Q.** Finally, if you have a question about something --
16 whether something is protected by your legislative
17 privilege, please let me and the Court know. I may be
18 able to rephrase or withdraw my question. The Court may
19 allow you to consult with me for the limited issue of
20 whether something is privileged, it may review your
21 testimony in-camera, or it may make any other appropriate
22 determination. Do you understand that?

23 **A.** Yes.

24 MR. DUNN: Pardon me. I would just like to note
25 for the record that hasn't been agreed. We object to the

1 witness being -- communicating with her lawyer in the
2 middle of the examination.

3 MR. HILTON: Well, that was my next question, to
4 ask the Court and Mr. Dunn if I have misstated the
5 procedure that we agreed upon. So I have misstated that.
6 That's fair.

7 MR. DUNN: And since I have been presented with
8 that inquiry, I will just add if there is a waiver of
9 legislative privilege, it doesn't just apply to the
10 subject of the question asked, which I thought is what you
11 implied.

12 MR. HILTON: We would disagree with Mr. Dunn on
13 that point, privilege asserted in response to specific
14 questions then would be waived with respect to specific
15 matters. And I don't believe that Senator Huffman would
16 waive all legislative privilege for all purposes if she
17 were to choose to waive legislative privilege. Again, she
18 has testified she doesn't intend to do that.

19 JUDGE GUADERRAMA: All right. And those are
20 determinations we'll make on each of those questions. I'm
21 not sure that that's settled amongst the three of us
22 either. So let's just move slowly.

23 BY MR. HILTON:

24 Q. All right. Senator Huffman, do you understand the
25 procedure for your testimony today?

1 **A.** Yes.

2 **Q.** Okay. All right. Now that we have got some
3 preliminary matters out of the way, let's go on to the
4 substance of the work of the Senate during the
5 redistricting cycle.

6 I want to begin by discussing rules regarding the
7 redistricting process; and as we discussed, I'm not asking
8 for your mental impressions, any privileged deliberations
9 or opinions about any legislation. I am hoping you can
10 explain to the Court as a factual matter what were the
11 rules of the road for redistricting this cycle. Is that
12 clear?

13 **A.** Yes.

14 **Q.** Okay. So did the Senate pass a resolution adopting
15 the rules for redistricting?

16 **A.** Yes.

17 **Q.** And was that Senate Resolution 4?

18 **A.** Yes.

19 **Q.** And is that Senate resolution publicly available, like
20 all official acts of the legislature?

21 **A.** Yes, it is.

22 **Q.** I'm not offering Senate Resolution 4 as an exhibit;
23 but since it's a public act of the legislature, I would
24 like to just put the text of it on the screen.

25 MR. HILTON: Could you put that up, Brian.

1 BY MR. HILTON:

2 Q. Senator Huffman, do you recognize this document?

3 A. Yes, I do.

4 Q. Okay. And what is it?

09:39:50 5 A. It is a copy of SR-4, which was passed in the first
6 regular session of the 87th Legislature in, I believe it
7 was, January of 2021.

8 Q. And did it control the work of the Senate
9 Redistricting Committee during the third called session of
09:40:06 10 the 87th Legislature? And again, just speaking in terms
11 of what does the law say and public information and not
12 asking you about your mental impressions.

13 A. Yes.

14 Q. And did the committee abide by those rules?

09:40:20 15 A. Yes.

16 Q. I want to zoom in, if we can, on Section 2 of Senate
17 Resolution 4.

18 MR. HILTON: Scroll up just a little bit, please,
19 Brian. Right there. Thank you.

09:40:36 20 BY MR. HILTON:

21 Q. According to Senate Resolution 4, what does Section 2
22 relate to?

23 A. Regional hearings and videoconference testimony.

24 Q. Does Section 2 of Senate Resolution 4 provide the
09:40:55 25 committee will accept public testimony at regional

1 hearings?

2 **A.** Yes.

3 **Q.** And does it provide for that testimony to be done via
4 videoconference?

09:41:06 5 **A.** Yes.

6 **Q.** Of course, this was passed during the COVID pandemic,
7 correct?

8 **A.** Correct.

9 **Q.** And did the Senate Redistricting Committee, in fact,
09:41:18 10 receive public testimony via videoconference?

11 **A.** We did.

12 **Q.** Going now to Section 3. Senator Huffman, what does
13 Section 3 of Senate Resolution 4 relate to?

14 **A.** It related to the public notice required for the
09:41:39 15 meetings.

16 **Q.** What is the public notice requirement as stated in
17 Section 3 of Senate Resolution 4? Again, not asking for
18 any mental impressions.

19 **A.** Just reading from the document, it stated that the
09:41:50 20 public notice required at least 72 hours in advance of the
21 meeting during the regular session and 48 hours in advance
22 during a special called session.

23 **Q.** And were those notice -- did the Senate Redistricting
24 Committee abide by those notice requirements?

09:42:05 25 **A.** Yes, we did.

1 **Q.** Does -- just as a factual matter, does the work of
2 redistricting typically get done during a regular session
3 as opposed to a called session?

4 **A.** You know, I hesitate using the word "typically"
5 because --

6 **Q.** Well, let me rephrase that.

7 **A.** Yes.

8 **Q.** Does it typically at least start during the regular
9 session?

10 **A.** Yes.

11 **Q.** And this year it didn't, correct?

12 **A.** Correct.

13 **Q.** Did the federal government make any or the U.S. Census
14 Bureau make any public representations about when it was
15 going to deliver census data to Texas?

16 **A.** Public representations? I believe there were some
17 public, but I can't recall specifically what the manner
18 was.

19 **Q.** Are you aware that federal law provides a statutory
20 deadline --

21 **A.** Yes.

22 **Q.** -- for the Census Bureau to provide the census data to
23 the states?

24 **A.** Yes.

25 **Q.** And are you aware what that deadline is?

1 **A.** Was it April? That's a guess. April 1, yes. It was
2 sometime in the spring. A lot earlier than we actually
3 received it this time.

09:43:21 **Q.** Well, that was my question. I believe the deadline
5 was April 1. You may or may not recall. Did the federal
6 government meet its deadline in the spring?

7 **A.** It did not.

8 **Q.** Okay. Did the U.S. Census Bureau ever publicly state
9 the reasons that the census data was delayed?

09:43:34 **A.** I believe they put out some public statements or
11 letters stating the COVID pandemic had delayed the
12 gathering of information, delayed the census final numbers
13 from being prepared, is my understanding.

14 **Q.** And when was the census data finally delivered to
15 Texas? And again, not asking for any privileged
16 conversations with legislators or staff.

17 **A.** It was in August.

18 **Q.** And who specifically did the U.S. Census Bureau
19 deliver that data to? Which agency of the Texas
20 government?

21 **A.** I believe it was the legislative council, yes.

22 **Q.** That is the Texas Legislative Council?

23 **A.** Yes.

24 **Q.** When did the Texas Legislative Council make that --
25 make that data available to the public?

1 **A.** I believe that it took the council -- the raw data was
2 available, I believe, almost immediately; but it took a
3 little time for them to load that into the RedAppl system
4 where it would be more easily digestible, you know, for
5 the public and others to understand the data. But we all
6 received the data at the same time, whether it be the
7 public, being members of the legislature, or anyone at all
8 received the data all at the same time.

9 **Q.** And you mentioned for the first time today RedAppl has
10 come up. Can you just explain as a factual matter what
11 RedAppl is?

12 **A.** Yes.

13 **Q.** So what is it?

14 **A.** Well, it's a software system that -- where all the
15 census data is downloaded; and it provides, you know, maps
16 and information that legislators and the public or
17 interest groups, and so forth, can use to actually draw
18 maps and look at data as we go through the redistricting
19 process.

20 **Q.** And you mentioned members of the public. Can members
21 of the public access RedAppl through the Texas Legislative
22 Council?

23 **A.** It's my understanding that they can.

24 **Q.** Did the 87th Legislature pass a bill in the second
25 called session regarding election dates?

1 **A.** Yes.

2 **Q.** And was that SB-13?

3 **A.** I don't recall the number. We had several, as you
4 know, several sessions. We had a lot of legislation, and
5 I don't recall the specific number.

6 **Q.** You've dealt with probably four SB-13s this year?

7 **A.** At least, yes.

8 **Q.** The bill that was passed regarding election dates, was
9 that signed by the Governor?

10 **A.** Yes.

11 **Q.** And I want to look at some provisions of that bill.

12 Again, not offering this as an exhibit. It's publicly
13 available text of the law that was passed.

14 Senator Huffman, do you recognize this document that's
15 on your screen?

16 **A.** Yes.

17 **Q.** And what is it?

18 **A.** It is SB-13, which dealt with temporary provisions for
19 how elections could be held in 2022, depending on when the
20 maps were final.

21 **Q.** And so beginning with Section B of SB-13 -- again, not
22 asking for your mental impressions, not asking for any
23 communications with legislators or staff or anything else
24 that would be privileged; but what does Section B of SB-13
25 do?

1 **A.** It was attempting to define when the specific piece of
2 legislation would actually become law, and we set up the
3 dates by which that would happen.

4 **Q.** And that becomes law for the limited purpose of this
5 bill?

6 **A.** This bill for these specific provisions, yes.

7 **Q.** And then going down to Subsection (c) -- Subsection
8 (c) and then there are several sub-subsections below that.
9 What does Subsection (c) here do?

10 **A.** Again, it was trying to -- this specific Subsection
11 (c) was trying to --

12 **Q.** I want to stop you there. Again, I want to clarify
13 I'm asking for you to read from the document and testify
14 regarding what the law itself states. I don't want you to
15 go into any mental impressions, any opinions, or any
16 conversation with the legislators or your intent in
17 considering legislation.

18 **A.** Okay. It was setting up for all three maps when the
19 election dates would be dependent upon when the maps
20 became final.

21 **Q.** And Subsection (1) here in Section C, what date does
22 Subsection (1) give?

23 **A.** November 15th, 2021.

24 **Q.** And did the governor sign redistricting laws passed by
25 the 87th Legislature prior to November 15th, 2021?

1 **A.** Yes.

2 MR. HILTON: If we could go to the next page to
3 Subsection (2), please.

4 BY MR. HILTON:

09:48:24 **Q.** And in Subsection (c) (2), what is the date range of
6 this section?

7 **A.** After November 15th, 2021 and on or before December
8 the 28th, 2021.

9 **Q.** And did the Governor sign redistricting laws passed by
09:48:39 10 the 87th Legislature between those dates?

11 **A.** I believe he signed it before that.

12 **Q.** So --

13 **A.** Yeah.

14 **Q.** So not within the date range specified in
09:48:49 15 Subsection (2)?

16 **A.** Correct.

17 **Q.** And then finally, Subsection (3), what date range does
18 that describe?

19 **A.** That was between December 28th, 2021, and February --
09:48:58 20 on or before February the 7th, 2022.

21 **Q.** And the same question there. On the face of SB-13,
22 did any redistricting legislation become law for purposes
23 of SB-13 within that date range?

24 **A.** No.

09:49:21 25 **Q.** All right. Let's turn to the work of the Senate

1 Redistricting Committee. I think we have already touched
2 on this. Did the committee hold public hearings?

3 **A.** Yes.

4 **Q.** How many total would you estimate?

09:49:33 5 **A.** I don't recall.

6 **Q.** Two or dozens or --

7 **A.** Well, maybe around ten, but that's an estimate.

8 **Q.** Let's pull up the Senate Redistricting Committee's
9 website again. This is a publicly available website, not
09:49:50 10 being offered as an exhibit.

11 Do you recognize this website, Senator?

12 **A.** I do.

13 **Q.** What does this website reflect?

14 **A.** It's the redistricting committee's official online
09:50:03 15 website.

16 **Q.** And this specific page, what does this specific page
17 display or show?

18 **A.** It gives the notice of the date of the hearing, the
19 copy of the hearing notice, the minutes and the witness
09:50:18 20 list.

21 **Q.** Okay. And what is the earliest date depicted on this
22 website?

23 MR. HILTON: Brian, would you scroll to that,
24 please.

09:50:29 25 **A.** January 25th of 2021.

1 BY MR. HILTON:

2 Q. And how many hearings did the Senate Redistricting
3 Committee hold in January of 2021?

4 A. Five.

09:50:37 5 Q. And were hearings held in February?

6 A. Yes.

7 Q. And in March?

8 A. Yes.

9 Q. And there are hearing dates in September and October,
09:50:49 10 correct?

11 A. Correct.

12 Q. And which session of the 87th Legislature were those
13 hearings held in?

14 A. The -- which hearings? I'm sorry. The October ones?

09:50:59 15 Q. The September and October hearings, were those in the
16 third called session?

17 A. Yes.

18 Q. And you mentioned --

19 A. One second.

09:51:08 20 Q. Oh, I'm sorry.

21 A. September may have been the second called session. It
22 was either the second or third. Yeah, it was one of the
23 special sessions.

24 Q. Thank you. And you mentioned that in connection with
09:51:17 25 each hearing there are a number of documents that may be

1 available on this website?

2 **A.** Yes.

3 **Q.** And so, if you could, just explain what each of those
4 is, the hearing notice and the minutes and the witness
5 list.

6 **A.** The hearing notice would give a copy of the actual
7 notice that was put out to let people in the public, other
8 legislators know the time and place and the substance of
9 what the hearing would be about.

10 The minutes would be what actually happened during the
11 hearing as prepared by the clerk of the committee.

12 And the witness list is, of course, the list of those
13 who testified and filled out cards online or at -- I think
14 we just did online. We didn't do hard cards, I don't
15 think, you know, printed cards. There may have been some
16 in the in-person, early-on hearings.

17 **Q.** Thank you, Senator.

18 MR. HILTON: That's it, Brian.

19 BY MR. HILTON:

20 **Q.** Let's go to Defendants' Exhibit Number 30. And as we
21 continue to explain to the Court, you know, the nuts and
22 bolts and how the Senate redistricting process went, we've
23 got Defendants' Exhibit Number 30 up on the screen. You
24 also have hard copies in front of you that are available,
25 if that would be easier.

1 **A.** Okay.

2 **Q.** Do you recognize what this document is?

3 **A.** Yes.

4 **Q.** And what is this document?

09:52:33 **A.** It's a notice of public hearing for a hearing that was
6 held at 10:00 a.m. Friday on September the 24th. Again,
7 it lays out the bills that will be heard.

8 **Q.** And I'll represent to you, Senator, that Defendants'
9 Exhibit Number 30 is a compilation of several different
09:52:52 10 documents. We'll look at a couple of them just so that
11 the Court has at least seen one of these types of
12 documents, and perhaps you can identify them and explain
13 them.

14 MR. HILTON: So if we could go to the next
09:53:04 15 minutes.

16 BY MR. HILTON:

17 **Q.** What is this document, Senator?

18 **A.** This is a copy of the minutes of a hearing, again, the
19 same hearing from Friday, September 24th, 2021.

09:53:26 20 **Q.** What kind of information did the minutes contain?

21 **A.** It tells you who was there, who wasn't -- when I say
22 "who," I meant senators were present -- when the meeting
23 began. And just like, you know, the minutes of an
24 official proceeding, it sort of lays out the time and the
09:53:45 25 basic explanation of what occurred during the hearing.

1 **Q.** Is this part of the official legislative record?

2 **A.** It is.

3 **Q.** And is that contained in the *Senate Journal*?

4 **A.** Yes.

09:53:56 5 **Q.** Are those documents publically available on the
6 Senate's website?

7 **A.** Yes.

8 MR. HILTON: If we could go to the next page,
9 Brian.

09:54:05 10 BY MR. HILTON:

11 **Q.** Senator Huffman, do you recognize this document? Do
12 you know what this document is?

13 **A.** Yes. It's the witness list for that same hearing we
14 have been discussing.

09:54:18 15 **Q.** And how is the information shown on here, and what
16 kind of information about the witnesses is available?

17 **A.** Basically, we document if someone testified for or
18 against or on a piece of legislation that's being heard
19 and then basic information about the individual without,
20 you know, giving home addresses, and so forth. It's just
21 basic information. If they represented an organization,
22 that's usually listed; if they represented theirself, it's
23 listed; and then their hometown, basically.

24 **Q.** Did the Senate Redistricting Committee provide other
25 opportunities, other than showing up at a hearing, in

1 order to provide their opinions and register their
2 thoughts about the bills?

3 **A.** Yes. The committee had a portal that was open to the
4 public that was open for more than a year where members of
5 the public could provide input, comments, documents, case
6 law, maps, you know, whatever they chose to bring to the
7 attention of the committee. And that was gathered for
8 some time. It's still open now, in fact. And members of
9 the public could provide that information.

10 And that was then passed on -- eventually, it was
11 loaded so that the public has access to that, as well.
12 Again by -- but we would redact personal information, and
13 so forth.

14 We did share all the information with all the members
15 of the committee; and that was available to them, I
16 believe, like in a Dropbox. But the private information
17 was then redacted by staff and placed upon the portal
18 public website for the public. And individuals are
19 informed that it would be made public.

20 **Q.** All right. And so again, just to -- well, strike
21 that.

22 The comments that were submitted, were those available
23 on the Senate website, as well?

24 **A.** Yes. Yes.

25 **Q.** Had the committee planned to conduct in-person

1 regional hearings around the state?

2 **A.** Yes, we had.

3 **Q.** Were those hearings canceled?

4 **A.** They were.

09:56:33 5 **Q.** And that was during the time the COVID pandemic was
6 raging and before any vaccines were available?

7 **A.** Absolutely. Yes.

8 **Q.** All right. Senator, I think that concludes what I
9 wanted to ask you about, about the process and the
09:56:55 10 structure of the calendar.

11 Let's start looking at some maps. What -- before I
12 do, what is the term -- are you familiar with the term
13 "benchmark map"?

14 **A.** Yes.

09:57:08 15 **Q.** And again, without asking for any legislative
16 privilege information, attorney-client or anything like
17 that, what does the term "benchmark map" mean to you?

18 **A.** I believe it means the map that you start with, the
19 current -- the map that is in use at the time you start
09:57:21 20 the process.

21 **Q.** Okay.

22 MR. HILTON: Could you pull up 21, please.

23 MR. DUNN: Excuse me, Your Honors. I apologize
24 to Court and counsel and the Senator for my brief
09:57:32 25 interruption here. I have to excuse myself from the

1 courtroom for a minute or two. May Mr. Gaber stand in my
2 stead for a moment?

3 JUDGE GUADERRAMA: Yes, sir.

4 MR. HILTON: Your Honor, I would be happy to
09:57:41 5 stand at ease and take a recess if that would be
6 preferable.

7 JUDGE GUADERRAMA: Let's take a ten-minute
8 recess. Be back at 10:07.

9 (Recess from 9:57 a.m. to 10:09 a.m.)

10 JUDGE GUADERRAMA: All right. Thank you. Be
11 seated, please.

12 All right, Mr. Hilton.

13 MR. HILTON: Thank you.

14 JUDGE SMITH: Mr. Dunn, don't hesitate to let us
10:10:08 15 know if there is any other kind of difficulty.

16 MR. DUNN: Thank you, Your Honor.

17 BY MR. HILTON:

18 Q. Okay, Senator. Let's turn, as I said, to some maps.
19 And we just discussed the term "benchmark map" or
10:10:30 20 "benchmark plan"?

21 A. Yes.

22 Q. Let's go ahead and pull up Plan S-2100. This is from
23 the District Viewer website, publicly available. Well,
24 Senator Huffman, can you explain to the Court what the
10:10:45 25 District Viewer website is?

1 **A.** I'm sorry. What the what?

2 **Q.** I'm sorry. The District Viewer website.

3 **A.** It is a website that gives you access to the maps that
4 are drawn, the current ones, the proposed ones, ones that
5 were passed in committee, the amendment process, and so
6 forth. It's a view of the maps.

7 **Q.** It's available to the public?

8 **A.** It is, yes.

9 **Q.** It's maintained -- is it maintained by the legislative
10 council?

11 **A.** It is, yes.

12 **Q.** Do you recognize this plan, this map?

13 **A.** I can say I recognize by looking at the shapes of the
14 districts. By the plan numbers, not so much, to be
15 honest, because there were so many different ones, yes.

16 **Q.** Fair enough.

17 **A.** Yeah.

18 **Q.** What is this map?

19 **A.** It looks like, to me, like the -- from what I can see,
20 without having access to blowing up the more -- the
21 smaller districts, it looks like the benchmark plan.

22 **Q.** Well, let's zoom in to Tarrant County, Senate District
23 10. The benchmark plan, is that the map that was drawn
24 and enacted following the release of the 2010 census data,
25 the last census round?

1 **A.** I don't recall if that was the one from that cycle or
2 the next redistricting cycle, which was 2013.

3 **Q.** Understood.

4 **A.** By looking at this, I really can't say.

10:12:17 5 **Q.** Understood. And I want to clarify. My question was
6 based on -- was: Which census was this based on? Was
7 this based on the 2010 census?

8 **A.** Yes.

9 **Q.** Thank you. All right. Do you recognize this
10 configuration of SD-10?

11 **A.** I do recognize it as one of the configurations of
12 SD-10, yes.

13 **Q.** Do you know whether this is the configuration of SD-10
14 that Senator Powell currently represents?

10:12:46 15 **A.** I believe that it is, yes.

16 **Q.** Do you know whether that's the same configuration of
17 SD-10 that was in effect in 2013?

18 **A.** I believe that it is, yes.

19 **Q.** Okay. Next, I would like to pull up Defendants'
20 Exhibit Number 22. And as we go into this exhibit,
21 Senator, I want to just again reiterate, regarding your
22 legislative privilege, that I am not asking you to reveal
23 any mental impressions or any thought process or any
24 opinions. When I'm questioning you about this exhibit or
25 any exhibit, I'm just asking for you to confirm the

1 content of the exhibit.

2 **A.** Okay.

3 **Q.** Defendants' Exhibit Number 22, which is -- do you see
4 the title here?

10:13:41 5 **A.** I do.

6 MR. HILTON: And can we zoom in on Row 10,
7 please, Brian.

8 BY MR. HILTON:

9 **Q.** Do you see at the top it says "Special Tabulation of
10 Citizen Voting Age Population"?

11 **A.** I see that.

12 **Q.** And you saw earlier it referenced Plan S-2100?

13 **A.** Yes.

14 **Q.** And that was the same plan that we were looking at on
15 District Viewer a moment ago?

16 **A.** Yes.

17 **Q.** What is the White alone CVAP number listed on
18 Defendants' Exhibit Number 22?

19 **A.** 53.9 percent, plus or minus 45.

10:14:27 20 **Q.** And, Senator, do you have an understanding what "CVAP"
21 is?

22 **A.** Yes.

23 **Q.** And without asking you to reveal any legislative or
24 attorney-client privileged conversations or information,
10:14:38 25 what is your understanding of "CVAP"?

1 **A.** It's the citizen voting age population.

2 **Q.** Do you have to be a citizen to vote in Texas?

3 **A.** Yes.

4 **Q.** Looking back to Defendants' Exhibit Number 22, what is
5 the CVAP number listed on this exhibit for -- under the
6 column Black alone for Senate District 10?

7 **A.** 20.5.

8 **Q.** And what is the Hispanic CVAP number that's listed on
9 this exhibit for Senate District 10?

10 **A.** 20.4.

11 **Q.** And if you combine those two numbers, the total of
12 those two combined would be roughly what, based on the
13 face of Defendants' Exhibit Number 22?

14 **A.** 40.9.

15 **Q.** Let's go to Plan S-2101. Again, we'll pull this up
16 from the District Viewer website. Understanding that you
17 have looked at many, many, many maps and plans -- so if
18 the answer is no, that's an acceptable answer -- but do
19 you recognize this map?

20 **A.** It is one of the maps that we submitted as a proposed
21 map.

22 **Q.** Again, without asking you to go into any legislative
23 privileged information, just based solely on what is in
24 the public record, was this the -- if you recall, was this
25 map your initial statewide proposal for a new Senate map?

1 **A.** Yes. It appears, from what I'm looking at, at this
2 angle, yes.

3 **Q.** Thank you, Senator. Do you recall when this map, this
4 plan was released to the public?

10:16:32 **A.** I cannot give you a specific date, no.

6 **Q.** Do you remember -- and if you don't, that's okay. Do
7 you remember approximately, you know, within the
8 redistricting calendar that we looked at, at what point in
9 the process it was released?

10 **A.** It was, looking at the calendar, sometime before the
11 first committee hearing on the Senate map. So this is
12 prior to that, yes.

13 **Q.** And when these maps are released to the public and
14 made publicly available, where does the public go to
15 access them?

16 **A.** I believe District Viewer, yes.

17 **Q.** That's one place they can go?

18 **A.** I believe that's one place they can go, yes.

19 **Q.** And I'm not asking for the content of any
20 communications that you had with any legislators, but did
21 you meet with members of the Senate prior to releasing
22 this proposal to the public?

23 **A.** I did.

24 **Q.** Okay. And again, not asking for the content of any
25 communication or anything that would be privileged, did

1 you meet with Senator Powell prior to releasing this
2 proposal?

3 **A.** I did.

4 **Q.** And let's zoom in on Tarrant County and SD-10. Again,
5 just looking at the face of the plan -- I'm not asking for
6 any legislative privilege or information -- is SD-10
7 changed in this map compared to the benchmark map?

8 **A.** Yes.

9 **Q.** Does it add counties to Tarrant County?

10 **A.** Yes.

11 **Q.** Did you later offer a committee amendment to Plan
12 S-2101?

13 **A.** Yes.

14 MR. HILTON: Let's pull up Plan 2108, Brian.

15 BY MR. HILTON:

16 **Q.** Again, understanding that the answer may be no because
17 of the number of maps you've looked at and without asking
18 for any legislative privilege information --

19 JUDGE SMITH: Which defense exhibit is this?

20 MR. HILTON: I apologize, Your Honor. This is
21 not a defense exhibit. This is from the publicly
22 available District Viewer website.

23 JUDGE SMITH: Fair enough. That's fine.

24 MR. HILTON: And so I make it clear for the
25 record, the plan number, that's the way it can be accessed

1 on the District Viewer website. And I believe we cite to
2 that in some of our papers. If we don't, we certainly
3 can.

4 BY MR. HILTON:

10:19:05 5 Q. Do you recognize -- subject to those caveats that I
6 just gave, do you recognize this map, Senator?

7 A. Yes.

8 Q. And what is this map?

9 A. I believe this would be the map of the amendment
10 offered in the committee on the hearing dealing with the
11 Senate map, my amendment, yes.

12 Q. That was my next question. This was your amendment
13 that you offered as a committee amendment?

14 A. Yes.

10:19:39 15 Q. Do you recall when this was released to the public?

16 A. It was released right before -- the evening before the
17 hearing which was -- it was within the rules that we had
18 adopted under SJR-4 and, in fact, was earlier than
19 required under the SJR-4, the SJR-4 that we had adapted as
10:20:01 20 the rules for the committee process.

21 Q. You said it was released before the hearing. Are you
22 referring to the first Senate Redistricting Committee
23 hearing?

24 A. Yes.

10:20:08 25 Q. And do you recall --

1 **A.** Excuse me. For the Senate map, just so that's clear.

2 **Q.** Thank you for the clarification. For the Senate map.

3 Do you recall under the rules established under SR-4
4 what the deadline for committee amendments was?

10:20:26 5 **A.** I don't recall specifically; but I believe that it was
6 48 hours, you know, after we had had the hearing. So this
7 was actually introduced prior to the hearing so that the
8 public, and so forth, would have an opportunity to at
9 least see it and comment on it.

10:20:46 10 **Q.** And let's zoom in on Tarrant County and SD-10 and Plan
11 S-2108, as well. And is SD-10 changed in this map
12 compared to the benchmark?

13 **A.** Yes.

14 **Q.** And is it changed compared to Plan S-2101?

10:21:10 15 **A.** Yes.

16 **Q.** Does it add additional counties to SD-10?

17 **A.** Yes.

18 **Q.** Okay. You may have already said this; but I just want
19 to confirm, just to make sure it's clear in the record.

10:21:35 20 Did the Senate Redistricting Committee hold a committee
21 hearing on September 24th, 2021?

22 **A.** I would have to look at the public record to determine
23 the specific date; but it sounds like, yes, we did because
24 we looked at the minutes. Yes, I believe we did.

10:21:50 25 **Q.** Well, I'll represent to you that was the date of the

1 first hearing. And I think we have already seen documents
2 that confirm that but, if we haven't, we'll see more, I
3 think.

4 Was Plan S-2108 discussed in the Senate chamber during
10:22:03 5 that hearing?

6 **A.** Yes.

7 **Q.** Was Senator Powell at that hearing?

8 **A.** Yes.

9 **Q.** Did you speak at that hearing?

10 **A.** I did.

11 **Q.** And did Senator Powell question you at that hearing?

12 **A.** Yes, she did.

13 **Q.** And were members of the public present at that
14 hearing?

15 **A.** Yes.

16 **Q.** Okay. I would like to go through some of the
17 statements that were made in the Senate chamber during
18 that hearing.

19 MR. HLITON: I will be referring, Your Honors, to
10:22:31 20 Defendants' Exhibit Number 58 and Defendants' Exhibit
21 Number 59 for purposes of this hearing. Defendants'
22 Exhibit Number 58 is the transcript. Defendants' 59 is
23 the corresponding video.

24 And as -- just so you know, as we go forward, we're
10:22:46 25 going to be using a combination of both. For the most

1 part, I am going to be referring to clips by where they
2 appear in the transcript; but they also are all available
3 in the video.

4 BY MR. HILTON:

10:23:02 5 Q. All right. Now I want to play a video clip from this
6 hearing. This clip will be from the video that's
7 contained in Defendants' Exhibit Number 59; and the
8 portion that we will be playing is from Page 1 of the
9 corresponding transcript, which is Defendants' Exhibit
10 Number 58.

11 MR. HILTON: Could we play that first clip,
12 please, Brian.

13 (Defendants' Exhibit Number 59 played, as follows:)

14 "SENATOR HUFFMAN: Before we continue today, I
15 want to review the redistricting process thus far. Since
16 this committee was created, we have done our best to
17 remain open and transparent about the process; and we have
18 actively collected input from Texans and interested
19 parties across the state through many different avenues."

10:23:49 20 (Defendants' Exhibit Number 59 concluded.)

21 BY MR. HILTON:

22 Q. Again, I'm going to be asking you questions related to
23 these clips only about the public statements as they are
24 played or as they appear on the transcript.

25 A. Okay.

1 **Q.** I'm not asking you about any of your mental
2 impressions, any of your considerations or any other
3 privileged material that may be related to the statements.
4 I'm only asking about the public statements themselves.

10:24:08 **A.** Okay. Yes, sir.

6 **Q.** All right. Now, was that an accurate recording of
7 your statement during this hearing?

8 **A.** Yes.

9 **Q.** And is that clip from the official recording of
10 proceedings that's available to the public on the Senate
11 website?

12 **A.** Yes.

13 **Q.** And that transcript came from the -- the transcript in
14 Defendants' Exhibit Number 58 -- and it may be convenient
15 for you to have that in front of you in one of the exhibit
16 binders up there. If you could turn to that transcript.

17 MR. HILTON: Your Honor, may I approach to help
18 the witness find that?

19 JUDGE GUADERRAMA: Yes, Mr. Hilton.

10:24:55 20 BY MR. HILTON:

21 **Q.** Is the transcript that's in Defendants' Exhibit Number
22 58, did that transcript come from the *Senate Journal*
23 that's available to the public?

24 **A.** Yes.

10:25:13 25 **Q.** And can you confirm for me, looking at Defendants'

1 Exhibit Number 58, that this was the hearing that was on
2 September 24th, 2021?

3 **A.** Yes.

4 **Q.** Okay. All right. We're going to play two more clips
5 that are from portions of the transcript found on Page 2
6 of Defendants' Exhibit Number 58.

7 MR. HILTON: If you could just play the two
8 clips.

9 (Defendants' Exhibit Number 59 played, as follows:)

10 "SENATOR HUFFMAN: My goals and priorities in
11 developing these proposed plans include, first and
12 foremost, abiding by all applicable law, equalizing
13 population across districts, preserving political
14 subdivisions and communities of interest when possible,
15 preserving the cores of previous districts to the extent
16 possible, avoiding pairing incumbent members, achieving
17 geographic compactness when possible, and accommodating
18 incumbent priorities also when possible.

19 "In the Senate proposal, the total deviation between
20 the smallest district and the largest district is
21 5.5 percent. The total deviation for the SBOE proposal is
22 less than one percent at 0.91 percent.

23 "Within the Senate proposal, I have made every effort
24 to accommodate members' requests. We were able to
25 accommodate most of the requests in the plan before you

1 today, not all; and we will continue to work with members
2 as we work through this process."

3 (Defendants' Exhibit Number 59 concluded.)

4 BY MR. HILTON:

10:26:55 5 Q. Was that an accurate recording of your statements
6 during that hearing?

7 A. Yes.

8 Q. And they are accurately reflected in the transcript in
9 Defendants' Exhibit Number 58?

10:27:01 10 A. Yes.

11 Q. And again, not asking for any privileged information,
12 but, essentially, you describe some details about the
13 proposed Senate plan?

14 A. Yes.

10:27:14 15 Q. And this is a question not directly related to the
16 video clip but I just want to ask here: Again, not asking
17 for any legislative privileged information, but to the
18 extent this is a publicly available and ascertainable, you
19 know, datapoint, are there any split VTDs in the Senate
10:27:33 20 map that you initially proposed?

21 A. No.

22 Q. And are there any split VTDs in the Senate map that
23 you offered as a committee amendment?

24 A. No.

10:27:42 25 Q. Are there any split VTDs in the Senate map that was

1 finally passed --

2 **A.** No.

3 **Q.** -- by the legislature?

4 **A.** No.

10:27:50 5 **Q.** All right. I'm going to play another clip. This is a
6 clip from Defendants' Exhibit Number 59. The
7 corresponding portion of the transcript is Defendants'
8 Exhibit Number 58 at Page 4.

9 (Defendants' Exhibit Number 59 played, as follows:)

10:28:15 10 "SENATOR POWELL: Thank you, Chairman Hinojosa.

11 "So as you might well guess, I'm a little whiplashed
12 this morning after having seen the proposal for the new
13 maps for Senate District 10 about 9:00 last night. Could
14 you walk us through those changes to Senate District 10
15 that dropped around 9:00 last night?

16 "SENATOR HUFFMAN: Let me just look at my notes
17 so that I can be specific with you. Give me just a
18 second. You are asking for the changes from the initial
19 proposed map, Senator?

10:29:03 20 "SENATOR POWELL: Yes, ma'am.

21 "SENATOR HUFFMAN: All right. In the new
22 proposed amendment the Senate District 10 loses 70 percent
23 of Parker County. As you know, Parker County was added to
24 Senate District 2 in the original proposed map. And so
10:29:20 25 Senate District 10 would now have 30 percent of Parker,

1 which would be 44,027 people. In Parker County it adds a
2 VTD 215, 230, 235 and loses a VTD 305, 430. And SD-10
3 picks up additional whole counties of Palo Pinto, Young,
4 Stephens, Shackelford, Callahan, and Brown Counties."

10:29:49 5 (Defendants' Exhibit Number 59 concluded.)

6 BY MR. HILTON:

7 Q. Senator Huffman, was that an accurate recording of
8 your statements during that hearing?

9 A. Yes.

10 10 Q. And who was the person questioning you in that video?

11 A. Senator Beverly Powell.

12 Q. Was that an accurate recording of her questions during
13 that hearing?

14 A. Yes.

15 15 Q. And we're going to play the next clip from this
16 hearing contained in Defendants' Exhibit Number 59. This
17 clip corresponds to Page 5 of the transcript, which is
18 Defendants' Exhibit Number 58.

19 (Defendants' Exhibit Number 59 played, as follows:)

20 20 "SENATOR POWELL: In fact, I have a question for
21 you. Who -- who drew these maps?

22 22 "SENATOR HUFFMAN: I drew the map, along with my
23 two attorneys and my -- members of my staff.

24 24 "SENATOR POWELL: And who are those attorneys?

25 25 "SENATOR HUFFMAN: Anna Mackin, who is sitting

1 right next to me, and Sean Opperman, who is up at the dais
2 as the committee director with Senator Hinojosa currently.

3 "SENATOR POWELL: And which of these lines for
4 Senate District 10 did you draw and which did they draw?

10:30:52 5 "SENATOR HUFFMAN: I was in the room when every
6 part of this map was drawn.

7 "SENATOR POWELL: Okay. And --

8 "SENATOR HUFFMAN: They didn't do anything
9 without my direction.

10:30:59 10 "SENATOR POWELL: Okay."

11 (Defendants' Exhibit Number 59 concluded.)

12 BY MR. HILTON:

13 Q. Was that an accurate recording of your statements
14 during this hearing, Senator?

10:31:07 15 A. Yes.

16 Q. I want you to turn, please, to Page 6 of the
17 transcript, which is Defendants' Exhibit Number 58. I'm
18 going to ask you to read one of your statements from the
19 transcript, and it is going to be the -- this is Page 6 of
10:31:28 20 Defendants' Exhibit Number 58, Bates-numbered State
21 PI-001655.

22 And there is some questioning from Senator Powell
23 regarding senators who may have been in the room and
24 providing input into the maps. And then there is a
10:31:44 25 statement that is attributed to you that says -- that

1 begins "They were not in the -- let me rephrase that."

2 Can you please read that statement into the record?

3 **A.** To make sure I'm clear, you want me to read my
4 response?

10:31:56 5 **Q.** Yes, please.

6 **A.** "They were not in the room"?

7 **Q.** Yes.

8 **A.** Okay. "They were not in the -- let me rephrase that.

9 Senators were not [sic] brought into the room to see the
10 map, just as you were, Senator Powell, and some of the
11 senators had specific requests to look at specific
12 precincts or specific communities of interest and wanted
13 us to bring things up on the map. You did not request me
14 to do that when you were in the room. Other senators did,
15 and I always worked with them. Many times what they
16 requested, as there are senators here looking at me right
17 now know, I told them we were unable to do it. Those
18 include Republicans, and that was the process."

19 MR. DUNN: Excuse me. If I may interject. I'm
20 sure it was inadvertent, but the second sentence says "and
21 some of the senators were" -- or excuse me, the second
22 sentence is "Senators were brought into the room" and I
23 believe the witness said "were not brought into the room."

24 MR. HILTON: Thank you, Mr. Dunn. That was
25 exactly what I was going to ask as the next question.

1 BY MR. HILTON:

2 **Q.** Was that an accurate -- subject to that one
3 correction, potentially, is that an accurate transcription
4 of your statement?

10:33:00 5 **A.** Senators were brought into the room. That is correct,
6 yes.

7 **Q.** That's what the transcript reads?

8 **A.** Yes. Yes.

9 **Q.** All right. I would like you to turn, please, to
10 Page 9 of Defendants' Exhibit Number 58. That's
11 Bates-numbered State PI-001658.

12 **A.** All right.

13 **Q.** This is a portion of the transcript where Senator
14 Powell is still questioning you. You would agree?

10:33:28 15 **A.** Yes.

16 **Q.** And the very bottom of this page -- and it expands on
17 to the next page -- you have an answer where you describe
18 your approach to the process of redistricting. And I
19 would like you to read that for the Court so that they can
20 understand your answer to Senator Powell's question.

21 **A.** Thank you. I said, "Thank you, Senator Powell. And
22 I'm going to answer to your comment. Our approach to this
23 process was informed by the redistricting jurisprudence
24 from the United States Supreme Court as well as other
25 applicable precedent.

1 "Several key cases are worth highlighting: *Abbott v.*
2 *Perez*, a 2018 Supreme Court case; *Cooper v. Harris*, a 2017
3 Supreme Court case. They make clear that any
4 redistricting decisions made on the basis of race must be
5 narrowly tailored to achieve compliance with the Voting
6 Rights Act.

7 "In *Cooper v. Harris*, Justice Kagan, writing for the
8 majority, held when a state invokes the VRA to justify
9 race-based redistricting, it must show to meet the narrow
10 tailoring requirements that it had a strong basis in
11 evidence for concluding that the statute required its
12 action. That was *Cooper v. Harris*, 2017 Supreme Court
13 case, quoting *Alabama Legislative Black Caucus v. Alabama*,
14 a 2015 case.

15 "Based on this warning against race-based
16 redistricting, I drafted all of the proposed maps totally
17 blind to race. Once I had drafted the maps, I ensured
18 that they underwent a legal compliance check to ensure
19 there were no inadvertent violations of any law, including
20 the Voting Rights Act. Thank you."

21 **Q.** Thank you, Senator, for rereading for us your
22 statement from the floor.

23 **A.** Yes.

24 **Q.** Was that an accurate transcription of your statements
25 during that hearing?

1 | **A.** Yes. They appear to be.

2 Q. All right. We're going to play, I believe, one more
3 clip from this hearing. It's contained in Defendants'
4 Exhibit Number 59. The relevant portion -- the
5 corresponding portion of the transcript is from
6 Defendants' Exhibit Number 58, Page 11. I believe the
7 beginning of this is some questioning by Senator Alvarado,
8 but I'll let the clip speak for itself. You can confirm
9 for us.

10 (Defendants' Exhibit Number 59 played, as follows:)

11 "SENATOR ALVARADO: So let's move to the DFW
12 region. What communities drove population growth in the
13 DFW Metro area? And, in comparison, can you tell how the
14 White population grew in the Metroplex?

15 "SENATOR HUFFMAN: It's the same answer to you,
16 Senator Alvarado. I haven't looked at the data, so I
17 cannot give you an answer.

18 "SENATOR ALVARADO: Okay. So I -- from what I am
19 told, communities of color in Tarrant County are primarily
20 cracked between Senate Districts 9, 10 and Senate District
21 22 in a county where the White population shrunk by
22 2 percent, while Asian, which is about 56 percent in
23 growth, African-American 40 percent growth, and Latino
24 29 percent communities all grew significantly.

25 "Looking at Tarrant County, Arlington specifically,

1 why has the Black population been split into multiple
2 Senate districts?

3 "SENATOR HUFFMAN: Again, Senator Alvarado, I did
4 not look at that data when I drew the maps. I drew blind
5 to race. So I could not answer that question.
10:36:59

6 "SENATOR ALVARADO: Okay."

7 (Defendants' Exhibit Number 59 concluded.)

8 BY MR. HILTON:

9 Q. Senator, was that an accurate recording of your
10 statements during that hearing?
10:37:07

11 A. Yes.

12 Q. And was that Senator Alvarado questioning you?

13 A. Yes.

14 Q. Was that an accurate recording of her statements
15 during that hearing?
10:37:15

16 A. Yes.

17 Q. And turning to Page 12 of Defendants' Exhibit Number
18 58, if you could, please, Senator, it appears to me that
19 Senator Alvarado asks you several other questions and you
20 provided similar answers.
10:37:29

21 Do you agree with that characterization of Defendants'
22 Exhibit Number 58?

23 A. Yes. That's fair.

24 Q. And could you please read your last two comments from
25 the transcript on this page of Defendants' Exhibit Number
10:37:42

1 58, beginning "Senator Alvarado, again, I drew --"

2 **A.** "Senator Alvarado, again, I drew these maps, as I've
3 told you, of course, and Senator Powell that they were
4 drawn blind to race. As you know, we have a growing
5 state. One of the fastest growing states in the nation.
6 We have a very large state."

7 She says, "Okay."

8 And I said, "Not sure what that is. Very large state
9 and the population, of course, is not necessarily growing
10 equally throughout the state. And when we drew these
11 maps, many times members contributed to information about
12 communities of interest, and so forth. But we did our
13 best to follow the redistricting guidelines drawing blind
14 to race."

15 **Q.** Thank you, Senator. Was that an accurate
16 transcription of your statements during that hearing in
17 response to Senator Alvarado's question?

18 **A.** Yes. They appear to be.

19 **Q.** I would like to play one more clip, I believe. I
20 think I have said that maybe twice already.

21 MR. HILTON: I apologize, Your Honor. I
22 appreciate the patience as we go through this to preserve
23 the privilege.

24 BY MR. HILTON:

25 **Q.** Play another clip from Defendants' Exhibit Number 59

1 that corresponds to Page 37 of Defendants' Exhibit Number
2 58.

3 MR. HILTON: Brian, if you would play that.

4 (Defendants' Exhibit Number 59 played, as follows:)

10:39:13 5 "MR. LEE: -- to the State, though.

6 "SENATOR HUFFMAN: Well, as I stated very
7 clearly, these maps were drawn blind to race. And then I
8 consulted with the Attorney General's office, and they
9 gave me legal advice as to whether or not I had -- I had
10 complied with the Voting Rights, Section 2; and that's
11 what we have done.

12 "We invite anyone -- because the data that they use is
13 completely open to the public, we invite anyone to submit
14 alternative maps.

10:39:43 15 "Do you have a map you would like for us to consider
16 here today?

17 "MR. LEE: I do not.

18 "SENATOR HUFFMAN: Okay."

19 (Defendants' Exhibit Number 59 concluded)

10:39:47 20 BY MR. HILTON:

21 Q. Is that an accurate recording of your statements in
22 the Senate hearing that day?

23 A. Yes.

24 Q. And do you recall who the person you are addressing
10:39:55 25 is?

1 **A.** Mr. Lee, I believe is his name.

2 **Q.** And do you know what organization he is affiliated
3 with?

4 **A.** No.

10:40:05 5 **Q.** I'll represent to you that it was the Brennan Center
6 for Justice. Would you have any reason to disagree with
7 that?

8 **A.** I would not, but your recall refreshes my memory.

9 **Q.** Thank you, Senator. Was that an accurate recording of
10 yours and his statements that day?

11 **A.** Yes.

12 MR. HILTON: And this will be the fourth time now
13 that I've said one more, but this truly is the last one
14 from this hearing. And, again, I appreciate the Courts'
15 patience as we get these statements into the record.

16 BY MR. HILTON:

17 **Q.** One more statement from you, Senator Huffman, or you
18 can confirm whether it's from you, corresponds to
19 Defendants' Exhibit Number 58 at Page 57.

10:41:01 20 MR. HILTON: I apologize, Your Honor. There is a
21 slight technical difficulty. I'll use the downtime just
22 to let the Court know where I intend to go from here and
23 how I intend to proceed.

24 This will be the last clip from this hearing. There
25 are two more hearings that we'll go through with a much

1 smaller number of clips.

2 And then the final hearing is from the Senate floor
3 debate. There is a significant amount of material from
4 that floor debate.

10:41:38 5 But then I think that will conclude the clips that we
6 are going to play for the Court. And then we may look at
7 one more map.

8 (Defendants' Exhibit Number 59 played, as follows:)

9 "SENATOR HUFFMAN: Okay. And you have talked
10 about, I think you mentioned -- in fact, you said you are
11 working on proposals, and so forth. So I just want to
12 reiterate the process. I know you have heard me say that
13 we have drawn the maps completely blind to racial data.
14 That continues to this point. I have not looked at that.
15 And then we submitted that and then, with the advice of
16 legal counsel, been told that we were in compliance with
17 Section 2. All right.

18 "So at this point I'd say to you, if you disagree with
19 that and you think that there is a strong basis and
20 evidence to show otherwise, I ask you to present that to
21 me, and I will give it all the legal opinion -- I will get
22 a legal opinion on that and move forward from there."

23 (Defendants' Exhibit Number 59 concluded.)

24 BY MR. HILTON:

10:42:39 25 Q. Is that an accurate recording of your statements

1 during the hearing, Senator?

2 **A.** Yes.

3 **Q.** And referring to that page of the transcript in
4 Defendants' Exhibit Number 58, can you -- can you tell
5 from the transcript who it is that you were addressing in
6 those comments? And again, I don't want to ask you to
7 reveal any nonpublic privileged information. But can you
8 tell who you were addressing?

9 **A.** Ms. Perales.

10 **Q.** Is that Nina Perales?

11 **A.** Yes.

12 **Q.** All right. Moving on from the September 24th hearing,
13 did -- do you recall how soon after the Senate
14 Redistricting Committee held its next hearing from this
15 first one?

16 **A.** No.

17 **Q.** If you could turn to Defendants' Exhibit Number 60.
18 That's the transcript we'll be looking at, and we'll be
19 using video clips from Defendants' Exhibit Number 61.

20 Do you recognize Defendants' Exhibit Number 60,
21 Senator?

22 **A.** It's just blank here, to be honest. There is nothing
23 in that tab. So --

24 MR. HILTON: May I approach?

25 JUDGE GUADERRAMA: Yes, sir.

1 MR. HILTON: Let's do this. Brian, can you bring
2 up the first page of Defendants' Exhibit Number 60
3 briefly. You have done it. Thank you.

4 BY MR. HILTON:

10:44:13 5 Q. Do you recognize the documents on the screen, Senator?

6 A. Yes.

7 Q. And what is this document?

8 A. It appears to be the transcript of the hearing on
9 September the 25th, 2021.

10 Q. That was the day after the hearing we were just
11 discussing?

12 A. Yes.

13 Q. And this -- was this the next hearing that the Senate
14 Redistricting Committee held regarding Senate maps?

10:44:39 15 A. It would have been, yes, the next day.

16 Q. Okay. And we're going to play a clip from Defendants'
17 Exhibit Number 61 that corresponds to the first page of
18 the transcript that's on Defendants' Exhibit Number 60.

19 A. Okay.

10:44:51 20 (Defendants' Exhibit Number 61 played, as follows:)

21 "SENATOR HUFFMAN: -- Board of Education
22 Districts. Today is the second opportunity for the public
23 to provide input on Senate Bill 4 and Senate Bill 7. I
24 again want to point out that the committee will not be
10:45:01 25 taking any action on the proposed plans before us today.

1 "Today's hearing is intended to provide another
2 opportunity to hear and put on the proposed plans.
3 Committee members and other senators will have the
4 opportunity to ask questions of witnesses.

10:45:15 5 "As a reminder, committee amendments are due to the
6 committee by September 26th, that is Sunday, at 10:00 a.m.

7 "Legislative council is asking that committee
8 amendments be submitted to them by 5:00 p.m. on
9 September 25th in order for them to have sufficient time
10 to process and produce the amendment packet. They will,
11 however, do their best to process amendments submitted to
12 them after that time. So we will work with you to try to
13 get that done.

14 "At next week's hearing we will vote on each amendment
15 and the proposed plans before us today.

16 "So that's the process, and I will say we're here this
17 morning. It is a Saturday morning. We do want to
18 accommodate as many people."

19 (Defendants' Exhibit Number 61 concluded.)

10:45:59 20 BY MR. HILTON:

21 Q. Were members of the public present at that hearing?

22 A. Yes.

23 Q. And was that an accurate recording of your statement
24 to that hearing?

10:46:07 25 A. Yes.

1 **Q.** We'll move on now to the next -- the next set of
2 exhibits, the next hearing. The transcript we're going to
3 be referring to is Defendants' Exhibit Number 62, which I
4 believe you do have in your binder -- and I apologize for
5 the mishap -- and the video that corresponds with this
6 transcript is in Defendants' Exhibit Number 63.

7 Senator, did the Senate Redistricting Committee hold a
8 committee hearing on September 28th, 2021?

9 **A.** Yes.

10 **Q.** And was Senator Powell at that hearing? Do you
11 recall?

12 **A.** I don't recall.

13 **Q.** Did you speak at that hearing?

14 **A.** Yes. I would have spoken.

15 **Q.** And were members of the public present at that
16 hearing?

17 **A.** Yes.

18 **Q.** All right. And we'll go through some of your
19 statements here. Senator Huffman, I would like you to
20 turn to Page 2 of the transcript that is Defendants'
21 Exhibit Number 62.

22 **A.** Yes.

23 **Q.** It's Bates Number State PI-001799, and there is -- I
24 would like you to read for the Court, so they can hear
25 what you said to the committee that day, your first

1 statement on Page 2. It begins, "All right. Members,
2 before discussing...."

3 **A.** "All right. Members, before discussing this specific
4 amendment, I would like to remind everyone of the criteria
5 I used in proposing and considering new districts. We
6 focused on complying with all applicable law, including
7 the Constitution, the Voting Rights Act, and the
8 requirement to equalize district populations based on the
9 2020 census, focused on keeping political subdivisions
10 together, keeping communities of interest together,
11 preserving the core of existing districts, creating
12 geographically compact districts, addressing partisan
13 considerations, protecting incumbents, and when possible
14 honoring reasonable requests made by incumbent members.
15 These considerations have also guided my approach to what
16 proposed committee amendments I'm able to support.

17 "So the first amendment --"

18 Do you want me to go on?

19 **Q.** That's fine, Senator. Thank you. Was that an
20 accurate transcription of your statements during that
21 hearing?

22 **A.** Yes.

23 **Q.** And you stated during that hearing -- again, only
24 referring to the content of the public statements -- that
25 addressing partisan considerations was one of your

1 considerations, correct?

2 **A.** Correct.

3 **Q.** And you stated that that was a criteria that you used
4 in proposing and considering new districts, is that
5 correct, from the transcription in Defendants' Exhibit
6 Number 62?

7 **A.** Yes.

8 **Q.** All right. I'm going to ask you to turn to Page 5 of
9 this transcript, Defendants' Exhibit Number 62, relating
10 to the September 28th hearing of the Senate Special
11 Committee on Redistricting; and that's Bates Number State
12 PI-001802.

13 Are you there, Senator?

14 **A.** Yes, I am.

15 **Q.** On this page of the transcript Senator Zaffirini is
16 discussing a committee amendment for Senator Powell as
17 sponsored by Senator Alvarado. Have I read correctly from
18 Page 5, and do you see what I'm referring to on the
19 transcript?

20 **A.** Yes.

21 **Q.** At the bottom of the transcript there is a statement
22 attributed to you. Do you see that?

23 **A.** Yes.

24 **Q.** And again, I just want -- again, I apologize. This is
25 somewhat lengthy, but I would like for the Court to hear

1 it in your voice your statements to the committee in
2 response to that amendment.

3 **A.** "All right. Members, this amendment proposes changes
4 to multiple districts in the DFW area. In testimony
5 before this committee Senator Powell argued that we should
6 not make changes to the existing SD-10 because it has
7 close to ideal total population as currently configured;
8 but this does not account for the neighboring districts,
9 including, for instance, SD-8 which was overpopulated by
10 57,955; SD-12, which was overpopulated by 146,201; or
11 SD-30, which was overpopulated by 87,087 people. Shifts
12 throughout the DFW area were needed to account for this
13 growth. Based on this and the other redistricting
14 objectives I discussed earlier, I proposed changes to
15 SD-10.

16 "Senator Powell also urged the committee to adopt
17 boundaries to SD-10 based upon the race of the people
18 living in parts of Tarrant County. As I have made clear,
19 my proposed plans were drafted blind to racial data and I
20 obtained legal advice prior to filing to ensure that there
21 were no inadvertent violations of the Voting Rights Act
22 during the race-blind drafting. I also sought legal
23 advice on the configuration of SD-10 as proposed in this
24 Plan S-2119.

25 "After consultation with my legal counsel and my

1 committee staff, I respectfully disagree with this
2 suggestion that this configuration of SD-10 is required by
3 Section 2 of the Voting Rights Act.

4 "Because I do not believe that the proposed changes
10:51:29 5 are required by law, because I want to accommodate the
6 redistricting objectives I discussed earlier, and to
7 ensure that no voters are placed in or out of the district
8 based solely on their race, I will respectfully be voting
9 against this amendment."

10:51:45 10 Q. Was that an accurate transcription of your
11 statements --

12 A. Yes.

13 Q. -- during that hearing?

14 A. Yes.

10:51:50 15 Q. And it referred to plan -- you refer to Plan S-2119?

16 A. Yes, I did.

17 MR. HILTON: Brian, could you please pull up
18 S-2119 on the District Viewer if you have it handy.

19 BY MR. HILTON:

10:52:15 20 Q. If you don't recall or if you don't remember, no is a
21 perfectly acceptable answer. I'm not asking for any
22 privileged information. But do you recognize this map?

23 A. I don't specifically remember the configurations, but
24 I can see that it's the plan that I referred to at the
10:52:31 25 time in my testimony -- in my answer, I mean.

1 **Q.** And this was a plan that was sponsored by Senator
2 Alvarado at the request of Senator Powell, as reflected in
3 the transcript from Defendants' Exhibit Number 62?

4 **A.** Yes, as reflected in the transcript.

10:52:45 **Q.** Okay.

6 MR. HILTON: Thank you, Brian.

7 BY MR. HILTON:

8 **Q.** And, Senator Huffman, was action taken by the
9 committee on the Senate map at the September 28th, 2021,
10 hearing?

11 **A.** I don't recall if it was on that hearing or not -- on
12 that date, I should say, I guess.

13 **Q.** Understood. Well, how many committee hearings were
14 there before the committee referred bills out to the full
15 body?

16 **A.** On the Senate map? I don't recall specifically. I
17 think three, but that's the best of my recollection.

18 **Q.** Fair enough, Senator. Thank you.

19 **A.** You are welcome.

10:53:24 **Q.** Well, let's turn to the next set of transcript and
20 video and, mercifully, this will be the last one. This
21 will be Defendants' Exhibit Number 64 and 65. Defendants'
22 Exhibit Number 64 is the transcript, and 65 is the video.

23 And let me know when you have turned to that
24 transcript, please.

1 **A.** I am in that area, yes.

2 **Q.** Okay. And on October 4th, 2022 [sic], did the full
3 Senate consider the maps that were referred by the
4 committee?

10:53:51 **A.** Yes.

6 **Q.** Do you recall whether Senator Powell was at that
7 hearing?

8 **A.** She was there.

9 **Q.** And did you speak at that hearing?

10 **A.** Yes.

11 **Q.** And did Senator Powell question you at that hearing?

12 **A.** She did.

13 **Q.** And did other senators question you at that hearing?

14 **A.** Yes. Numerous.

10:54:06 15 JUDGE SMITH: The transcript says October 4th,
16 2022. Of course, it should be 2021.

17 MR. HILTON: Absolutely, Your Honor. I
18 apologize. I think I said 2022, as well.

19 BY MR. HILTON:

10:54:16 20 **Q.** The date is October 4th, 2021. That's the correct
21 date, right, Senator?

22 **A.** Correct. Yes.

23 **Q.** And we will submit a corrected version of this
24 transcript to make sure that the date is accurate.

10:54:29 25 Looking at the transcript, Senator Huffman, I want to

1 ask you: Is this an official transcript from the *Senate*
2 *Journal*?

3 **A.** Well --

4 **Q.** It looks different than the other transcripts you have
5 looked at.

6 **A.** -- it looks different. I'm not sure. It looks like
7 it was done by Kim Tindall & Associates, if I'm looking at
8 the right place.

9 **Q.** You can see on the third page of this exhibit it lists
10 a court reporting company and has a title page. Do you
11 see that?

12 **A.** Right. I don't think there is a court reporting
13 company that officially does it for the Senate, if that's
14 the question.

15 **Q.** Well, I'll represent to you that this transcript was
16 prepared by a court reporter.

17 **A.** Okay.

18 **Q.** And so, as we go through, again, I would ask you to
19 confirm the accuracy of their transcription; and we'll
20 look at some video clips, as well.

21 **A.** Okay.

22 **Q.** And so, as we do the clips, even if I don't ask you to
23 read them, if you could follow along so that we can
24 confirm the accuracy of the transcript as we do it.

25 **A.** Yes.

1 MR. HILTON: And, Your Honor, it appears to me,
2 at least the version I have, has the correct date. If the
3 Court doesn't have that, we'll make sure the Court gets
4 it. I apologize if I misspoke. It's October 4th, 2021.

10:55:44 5 JUDGE GUADERRAMA: That's the date on my
6 Exhibit 64.

7 MR. HILTON: Okay.

8 JUDGE GUADERRAMA: There might be --

9 MR. HILTON: When we have time, Your Honor,
10 before we leave El Paso, we'll certainly check all the
11 binders that the Court would like us to check and make
12 sure everything is correct.

13 JUDGE SMITH: When I was referring to the word
14 "transcript," I was talking about today's court reporter's
15 transcript which said 2022, which I assume was just
16 transcribing what you had said.

17 MR. HILTON: Thank you, Your Honor. That's
18 exactly right.

19 JUDGE SMITH: I think these exhibits that we have
20 are right.

21 MR. HILTON: Okay. I'm glad that's all clear.
22 Thank you, Your Honor.

23 BY MR. HILTON:

24 Q. All right. We're going to play a clip from
25 Defendants' Exhibit Number 65. This is going to

1 correspond to Defendants' Exhibit Number 64, which is the
2 transcript, and it begins on Page 4 at Line 22, and it
3 runs for several pages. I think this is just a couple of
4 minutes. So we'll begin with that clip.

10:56:45 5 (Defendants' Exhibit Number 65 played, as follows:)

6 "MR. PRESIDENT: Senator Huffman, you are
7 recognized to explain the bill.

8 "SENATOR HUFFMAN: Thank you, Mr. President and
9 members. Members, this is the Senate bill which draws our
10 new lines for the entire Senate. We're going to call this
11 -- it's officially called Plan S-2130 if you are looking
12 in District Viewer.

13 "This plan was developed after the committee heard
14 many hours of public testimony and after I listened to
15 each member's priorities and input about their respective
16 district.

17 "My goals and priorities in developing this proposed
18 plan included, first and foremost, following all
19 applicable law, equalizing populations across districts,
20 preserving political subdivisions and communities of
21 interest when possible, preserving the cores of previous
22 districts to the extent possible, avoiding pairing
23 incumbent members, achieving geographic compactness, and
24 accommodating incumbent priorities to the extent that I
25 could.

1 "I also looked at and considered public plans, which
2 were submitted through the portal process that has been
3 opened for several months now; and some members of the
4 public have submitted those plans, as well as some of the
5 different organizations and groups.

10:58:05 6 "In the plan before us today, Plan S-2130, the total
7 deviation between the smallest district and the largest
8 district is 6.13 percent. I would also like to point out
9 that this plan does not split one single voting tabulation
10 district, also known as VTD, in the entire state.

11 "When developing the Senate proposal, I made every
12 effort to accommodate member requests; and I am pleased
13 that I was able to accept many of your requests in the
14 plan before you today. Not all, but many.

10:58:42 15 "I know that every member of this body, including
16 myself, would prefer to make certain adjustments to the
17 proposed plan. But, unfortunately, changing as little as
18 one precinct sometimes has an impact upon at least one
19 other district and typically has ripple effects that
20 impact multiple districts or sometimes even the entire
21 state.

22 "Before we get to individual amendments, I also want
23 to inform this body about my thought process in assessing
24 each amendment that was filed.

10:59:12 25 "First, the amendment as it interacts with the

1 statewide plan must abide by all applicable law. I sought
2 legal advice and reviewed relevant information with my
3 committee staff to satisfy myself that whatever map we
4 vote off of this floor today will be legal.

10:59:31 5 "Second, I prefer that an amendment does not increase
6 the plan's overall deviation, as we have worked hard to
7 keep district populations relatively similar and legal.

8 "Third, at this point in the process, it's my goal
9 that changes to districts involved in an amendment be
10 agreed-to deals between members to as much as was
11 possible.

12 "Finally, I have always kept in mind the redistricting
13 objectives and priorities I have laid out above.

14 "Since filing this plan, I have done my best to work
15 with members involved in specific changes to districts
16 they represent. Therefore, I don't think it's fair of
17 this body to abandon that strategy now. I also do not
18 want to put this body in the position of having to choose
19 between colleagues and friends when there is a
20 disagreement.

21 "Therefore, if an amendment is not agreed upon by all
22 members involved, I will be voting against the amendment
23 and will leave it to the will of the body."

24 (Defendants' Exhibit Number 65 concluded.)

11:00:30 25 BY MR. HILTON:

1 **Q.** Senator, was the video an accurate recording of your
2 statement at the beginning of the Senate floor debate?

3 **A.** Yes.

4 **Q.** And were there any -- you know, with the exception of
5 a word here and there, as sometimes can happen in a
6 transcript, was the substance of your statements
7 accurately reflected in the transcript?

8 **A.** Except for a couple of words that were left out.

9 **Q.** Were there any substantive omissions or corrections
10 that you would need to make to this transcript?

11 **A.** Well, I think it's important that when I said I would
12 leave it to -- it needs to be clear that's to the will of
13 the body, not just, like, leave it. So I think that's an
14 important distinction.

15 **Q.** Understood.

16 **A.** Yeah.

17 **Q.** But the video recording itself, that's the official
18 recording from the legislature?

19 **A.** Completely accurate, yes.

20 **Q.** And the video recording is publicly available?

21 **A.** Yes.

22 **Q.** And the video recording at Defendants' Exhibit Number
23 65, that is an accurate recording of your statements?

24 **A.** Yes.

25 **Q.** Okay. So we'll continue to refer to the transcript in

1 Defendants' Exhibit Number 64 for convenience. If there
2 is any substantive corrections that needs to be made due
3 to a transcription error, please let us know.

4 **A.** Okay.

11:01:48 5 **Q.** All right. I'm going to play a short clip from
6 Defendants' Exhibit Number 65 that refers to the -- that
7 corresponds to Page 9 of Defendants' Exhibit Number 64,
8 beginning at Line 18.

9 (Defendants' Exhibit Number 65 played, as follows:)

11:02:03 10 "SENATOR HUFFMAN: -- provided by the Texas
11 Legislative Council.

12 "SENATOR POWELL: And how many hours did it take
13 to construct this district plan?

14 "SENATOR HUFFMAN: I wouldn't want to begin to
15 guess, but countless. Many, many hours, yeah.

16 "SENATOR POWELL: And when did you begin to draw
17 the maps of this plan?

18 "SENATOR HUFFMAN: After the numbers came out."

19 (Defendants' Exhibit Number 65 concluded.)

11:02:24 20 BY MR. HILTON:

21 **Q.** Was that an accurate recording of your statements in
22 the floor debate?

23 **A.** Yes.

24 **Q.** And is the transcription a substantively accurate
11:02:33 25 reflection of your statements?

1 | A. Yes.

2 Q. We'll do the next clip. It corresponds to Page 15 of
3 Defendants' Exhibit Number 64, beginning at Line 13 with a
4 question from Senator Powell.

11:02:48 5 (Defendants' Exhibit Number 65 played, as follows:)

6 "SENATOR HUFFMAN: -- while performing the job.

7 "SENATOR POWELL: In terms of data that you
8 consulted, RedAppl has a statistics tab that allows the
9 user to choose which electoral and demographic data to
0 display on the screen while the map is being drawn; is
1 that correct?

12 "SENATOR HUFFMAN: Correct. Yes.

13 "SENATOR POWELL: Which fields were displayed
14 while the Senate plan was being drawn?

11:03:14 15 "SENATOR HUFFMAN: It -- it changed. Sometimes
16 we looked at county lines, sometimes precincts, the actual
17 precincts highlighted. Sometimes we had it shaded for
18 cities, and sometimes we had it shaded for partisan
19 numbers. Sometimes they were Trump numbers. Sometimes we
11:03:34 20 had several political elections up from different years
21 that we looked at, but population numbers were almost
22 always there. One thing we never had was racial shading.

23 "SENATOR POWELL: So did you have anything about
24 total population on the screen?

11:03:53 25 "SENATOR HUFFMAN: Yes.

1 "SENATOR POWELL: And any deviation percentages?

2 "SENATOR HUFFMAN: Yes. There is a kind of a
3 column in the left-hand side that as you proceeded you
4 could see what it did to the statewide deviation. I think
5 that they may have had to click on another button to see
6 it, but it was there on the left-hand column.

7 "SENATOR POWELL: And how about demographic data?

8 "SENATOR HUFFMAN: There was no demographic data
9 provided just, as I said, sometimes partisan numbers,
10 total population, city shading, things like that.

11 "SENATOR POWELL: Okay. You -- you mentioned
12 that election data was displayed.

13 "SENATOR HUFFMAN: Sometimes. Yeah.

14 "SENATOR POWELL: And so let me ask you
15 specifically about these particular election data. How
16 about the 2020 presidential election?

17 "SENATOR HUFFMAN: Yes.

18 "SENATOR POWELL: How about the 2020 Senate
19 election?

20 "SENATOR HUFFMAN: Sometimes, yes.

21 "SENATOR POWELL: The 2018 Senate election?

22 "SENATOR HUFFMAN: Is -- was that the Cruz
23 election? Is that the Cruz/Beto?

24 "SENATOR POWELL: Yes.

25 "SENATOR HUFFMAN: That was up there sometimes.

1 Sometimes we looked at it as a reference, but it wasn't
2 always up there.

3 "SENATOR POWELL: How about the 2018 governor
4 election?

11:05:09 5 "SENATOR HUFFMAN: Abbott, yes.

6 "SENATOR POWELL: And the 2016 presidential
7 election?

8 "SENATOR HUFFMAN: It was -- I don't think we had
9 that up there very often. Maybe occasionally. I don't
11:05:23 10 recall. That was not one of the main elections that we
11 looked at. Like I said, we never looked at that; but it
12 was not one of the main ones.

13 "SENATOR POWELL: Okay. Any other election that
14 maybe I didn't think to ask you here?

11:05:34 15 "SENATOR HUFFMAN: No. I think, you know, the
16 2020 Trump, the Abbott election, the Lieutenant Governor
17 Patrick's election, and Cruz/Beto were really the main
18 ones that we focused on. Yeah.

19 "SENATOR POWELL: Okay. RedAppl has a shading
11:05:51 20 tab that allows voter tabulation districts to be colored
21 based on a selected type of statistic; is that right?

22 "SENATOR HUFFMAN: I don't know which ones you
23 are referring to. As I said, we looked at the partisan
24 shading; and that's the only shading we looked at, other
11:06:08 25 than the ones that would shade municipalities or -- yeah,

1 just other parts of the annexation areas, and so forth.

2 "SENATOR POWELL: So going back to the election
3 data that was displayed, were those displayed in shading?

4 "SENATOR HUFFMAN: Were those what?

11:06:27 5 "SENATOR POWELL: Were those displayed in shading
6 maps?

7 "SENATOR HUFFMAN: Yes. I recall the teal was
8 the more Republican Trump and sort of an orangish color
9 was Biden, and they sort of would shade darker or lighter
11:06:42 10 depending upon the percentage and the heaviness of the
11 high -- the low percentage would be lighter and the higher
12 would be darker."

13 (Defendants' Exhibit Number 65 concluded.)

14 BY MR. HILTON:

15 Q. Senator, was that an accurate recording of your
16 statements during that hearing?

17 A. Yes.

18 Q. And the transcript in Defendants' Exhibit Number 64,
19 was that a substantively correct transcription of your
11:07:04 20 statements?

21 A. Yes.

22 Q. And one question about your statements towards the end
23 there. You were describing shading colors in those public
24 statements. You agree that's what the public statements
11:07:18 25 reflect?

1 **A.** Yes.

2 **Q.** I want to ask you a question -- again, not asking
3 about any privileged information, not asking about your
4 mental impressions or any thought process or what you
5 considered regarding legislation -- about the
6 functionality of the RedAppl software.

7 **A.** Okay.

8 **Q.** In RedAppl, when you turn on shading of any kind, is
9 the shading always in the same color?

10 **A.** No.

11 **Q.** Can the user of the RedAppl software select the colors
12 for shading?

13 **A.** Yes.

14 **Q.** Okay. So, for example, one could have Republicans
15 shaded as red and Democrats shaded as blue?

16 **A.** You could, yes.

17 **Q.** And in your public statements here you describe using
18 teal for Republican Trump and an orangish color for Biden.
19 Is that an accurate characterization of your public
20 statements here?

21 **A.** That's the way we did it, yes.

22 **Q.** All right. Senator, I'm going to ask you to turn to
23 Page 27 of Defendants' Exhibit Number 64. And beginning
24 on Page 26, Senator Powell asks you a question related to
25 population deviation for Senate District 10.

1 And she states, "No changes were needed in order for
2 SD-10 to have a legally permissible total population.
3 Would you agree that that is right?"

4 Did I read that correctly from the transcript?

11:09:00 5 **A.** Yes.

6 **Q.** All right. And can you please read your response from
7 the transcript.

8 **A.** "Not necessarily because, as you know, we had to look
9 at the state holistically; and just because one district
11:09:10 10 may have been close to ideal doesn't mean that it wasn't
11 going to be changed to accommodate a statewide plan."

12 **Q.** Is that a substantively accurate transcription of your
13 statements during this hearing?

14 **A.** Yes.

11:09:34 15 **Q.** And then let's turn to Page 29 of Defendants' Exhibit
16 Number 64. And, again, I'll ask you to read beginning on
17 Line 25 on this page and going on to the next page. You
18 can read statements attributed to you, and I'll read the
19 statements attributed to Senator Powell.

11:09:52 20 **A.** You would like me to start on Line 25?

21 **Q.** Yes, please.

22 **A.** "Well, I disagree with that conclusion. I mean, you
23 could look at all the numbers of all the districts and say
24 if I just move 10,000 here and 10,000 there, it would
11:10:05 25 work; but as you know, it does not. It's not that

1 simple."

2 **Q.** And this is Senator Powell: "Well, I believe it was
3 not necessary to make a single change to the borders of
4 SD-10 in order to balance the population of Senate
5 District 12 or Senate District 30."

6 **A.** "And that would have been the only Senate district in
7 the state of Texas that was not changed."

8 **Q.** So is that a substantively accurate transcription of
9 your statements at the Senate floor?

10 **A.** Yes.

11 **Q.** And did I read the portions attributed to Senator
12 Powell correctly?

13 **A.** Yes.

14 **Q.** And is that an accurate substantively -- substantively
15 accurate transcription of her statements?

16 **A.** Yes.

17 **Q.** All right. We're going to play a clip from
18 Defendants' Exhibit Number 65 that corresponds to Page 31
19 of the transcript that is Defendants' Exhibit Number 64;
20 and it begins Page 31, Line 21.

21 (Defendants' Exhibit Number 65 played, as follows:)

22 "SENATOR HUFFMAN: I don't recall, but that
23 sounds right. I'm not sure.

24 "SENATOR POWELL: What community of interest does
25 the City of Fort Worth and the City of Arlington have with

1 Brown County, Callahan County, Shackelford County,
2 Stephens County, Palo Pinto County, Parker County, and
3 Johnson County that are all rural counties?

4 "SENATOR HUFFMAN: Well, Senator Powell, as you
11:11:26 know, we have a very large state with thousands, probably
5 tens of thousands, if not hundreds of thousands of
6 communities of interest. So it's very normal for there to
7 be many communities of interest within a Senate district.
8 I am sure if we sat here and talked to every senator, they
11:11:45 10 could tell you about different communities of interest
11 within their Senate district. And sometimes they are
12 shared, even if they are far away.

13 "Senator Zaffirini has spoken eloquently about her
14 community of interest that goes down to I-35 from Webb
11:12:02 15 County all the way to Travis County. I am not sure you
16 have heard her speak of that. She speaks quite eloquently
17 on it.

18 "There are others that believe that it's -- it's a
19 small town that is very interested in a lake in their
11:12:12 20 area.

21 "So there could be many communities of interest within
22 a Senate district. Simply because a city is separated
23 into separate Senate districts does not necessarily mean
24 that these are not communities that could still work
11:12:25 25 together to have their goals met by their elected

1 representative."

2 (Defendants' Exhibit Number 65 concluded.)

3 BY MR. HILTON:

4 **Q.** Senator, was that an accurate recording of your
5 statements during the hearing?

6 **A.** Yes.

7 **Q.** And is the transcript in Defendants' Exhibit Number 64
8 substantively accurate with respect to your statements?

9 **A.** Yes. Yes.

10 **Q.** All right. The next clip that we'll play is from
11 Defendants' Exhibit Number 65 and corresponds to Page 34
12 of the transcript beginning at Line 18, and it continues
13 on for another page or two -- or perhaps beginning at
14 Line 5. Yeah, it begins at Line 5, Page 30.

15 (Defendants' Exhibit Number 65 played, as follows:)

16 "SENATOR POWELL: So I believe what you are
17 saying to us today is that if citizens or members of this
18 Senate inform you about neighborhoods that form a single
19 cultural community of interest, that you are unwilling to
20 modify the map to accommodate that community of
21 interest --

22 "SENATOR HUFFMAN: That is not what I said.

23 "SENATOR POWELL: I'm sorry. I didn't finish my
24 question.

25 "SENATOR HUFFMAN: Oh, I apologize.

1 "SENATOR POWELL: If those citizens -- let me --
2 let me say that again.

3 "SENATOR HUFFMAN: Okay.

4 "SENATOR POWELL: That you are unwilling to
11:13:46 5 modify the map to accommodate that community of interest
6 if those citizens explain that they share racial or
7 cultural ties with one another?

8 "SENATOR HUFFMAN: We listened to what everyone
9 had to say who came before us or anything that was
11:14:01 10 submitted through the portal. I think you can understand
11 that we have heard a lot of testimony about what
12 constitutes a community, and people have different
13 opinions about that. And many people come forward and
14 have concerns about issues. We listen to what everyone
15 has to say. And then, holistically, we put it together
16 and try to draw a legal map, which is what we did here.

17 "But, yes, we do listen to everyone, listen to their
18 concerns. But again, sometimes that's in conflict; but we
19 do listen to that.

11:14:35 20 "SENATOR POWELL: So you are aware that the
21 Supreme Court has ruled that absent a compelling reason,
22 race cannot be the predominant consideration in drawing a
23 district line; is that correct?

24 "SENATOR HUFFMAN: Repeat the beginning, please.

11:14:49 25 "SENATOR POWELL: The Supreme Court has ruled

1 that absent a compelling reason, race cannot be the
2 predominant consideration in drawing district lines; is
3 that correct?

4 "SENATOR HUFFMAN: I'm not sure that's exactly
11:15:01 5 what the Supreme Court has said. I believe that to draw a
6 district based on race, unless there is a strong basis in
7 evidence to believe the districting decision is required
8 under Section 2 of the Voting Rights Act, then it is a
9 racial gerrymander to do otherwise.

10 "SENATOR POWELL: All right."

11 (Defendants' Exhibit Number 65 concluded.)

12 BY MR. HILTON:

13 Q. Senator, was that an accurate recording of your
14 statements and Senator Powell's questioning during that
11:15:26 15 hearing?

16 A. Yes.

17 Q. And, Senator, was the transcript at Defendants'
18 Exhibit Number 64 a substantively accurate transcription
19 of those statements?

20 A. Yes.

21 MR. HILTON: I appreciate the patience, Your
22 Honors. The pauses mean that I'm skipping clips. So I
23 appreciate the time.

24 BY MR. HILTON:

25 Q. All right. The next clip that we'll play from

1 Defendants' Exhibit Number 65 corresponds to Page 40 of
2 the transcript beginning at Line 8.

3 (Defendants' Exhibit Number 65 played, as follows:)

4 "SENATOR HUFFMAN: -- needed population.

11:16:06 5 "SENATOR POWELL: Well, let's move on.

6 "SENATOR HUFFMAN: Okay.

7 "SENATOR POWELL: At the September 28th committee
8 hearing you said you were voting against my amendment
9 sponsored by Senator Alvarado to restore SD-10 in order to
11:16:20 10 accommodate your redistricting criteria.

11 "So which of the redistricting criteria that we just
12 discussed were you referring to when you said that?

13 "SENATOR HUFFMAN: All of them.

14 "SENATOR POWELL: All of them. Which
11:16:36 15 redistricting criteria do you think was served by voting
16 against that district?

17 "SENATOR HUFFMAN: I'm sorry. Which?

18 "SENATOR POWELL: Which redistricting criteria do
19 you think was served by voting against my amendment --

11:16:49 20 "SENATOR HUFFMAN: All of them.

21 "SENATOR POWELL: -- to keep SD-10 the same?

22 "SENATOR HUFFMAN: All of them were considered.

23 "SENATOR POWELL: All of them."

24 (Defendants' Exhibit Number 65 concluded.)

11:16:56 25 BY MR. HILTON:

1 **Q.** Was that an accurate recording of your statements on
2 the floor of the Senate chamber?

3 **A.** Yes.

4 **Q.** And is the transcription in Defendants' Exhibit Number
5 64 a substantively accurate transcription -- recording --
6 transcription of those statements?

7 **A.** Yes.

8 **Q.** I apologize. I'm getting a bit tongue-tied.

9 All right. The next clip that we'll play corresponds
10 to Page 41, beginning at Line 18 of Defendants' Exhibit
11 Number 64.

12 (Defendants' Exhibit Number 65 played, as follows:)

13 "SENATOR HUFFMAN: -- the date but, yes, I do
14 recall having some remarks, yes.

15 "SENATOR POWELL: And your September 28th
16 written, scripted criteria were the same as your
17 September 24th written, scripted criteria with one
18 exception. On September 28th, after the maps were drawn
19 and after the testimony had been received, you read aloud
20 from a piece of paper that, quote, partisan considerations
21 were also one of the redistricting criteria that you
22 followed in the drawing of the map. Do you recall that?

23 "SENATOR HUFFMAN: I don't recall there being a
24 difference; but I do recall that being one of the
25 considerations, yes.

1 "SENATOR POWELL: And did someone tell you to add
2 that new criteria of partisan considerations --

3 "SENATOR HUFFMAN: No.

4 "SENATOR POWELL: -- after you heard the public
11:18:25 5 testimony?

6 "SENATOR HUFFMAN: No."

7 (Defendants' Exhibit Number 65 concluded.)

8 BY MR. HILTON:

9 **Q.** Senator, was that an accurate recording of your
11:18:30 10 statements during the hearing?

11 **A.** Yes.

12 **Q.** And was that an accurate recording of Senator Powell's
13 questioning?

14 **A.** Yes.

11:18:35 15 **Q.** And your statement on Page 42 of the transcript,
16 Lines 3 and 4, says, "I do recall that being one of the
17 considerations, yes."

18 Did I read that correctly?

19 **A.** Yes.

11:18:54 20 **Q.** Based solely on the transcript and the statements
21 here, I just want to confirm your understanding of this
22 exhibit. I'm not asking for any privileged information or
23 any mental impressions or any information about your
24 considerations or motivations during the legislative
25 process. I'm solely asking about your reading of this

1 document in front of you, which is your public statement.

2 Does the word "that" in that sentence there refer to
3 partisan considerations?

4 **A.** Yes.

11:19:19 5 **Q.** We'll resume playing another clip corresponding to
6 Page 42 of Defendants' Exhibit Number 64, beginning Line
7 11, or thereabouts.

8 (Defendants' Exhibit Number 65 played, as follows:)

9 "SENATOR POWELL: -- partisan considerations,
11:19:35 10 though, after you heard the public testimony?

11 "SENATOR HUFFMAN: No.

12 "SENATOR POWELL: All right, then. You claim
13 that this map was drawn blind to race; is that correct?

14 "SENATOR HUFFMAN: That is the absolute truth as
11:19:48 15 God is my witness.

16 "SENATOR POWELL: So, in fact, when -- when we
17 had our committee discussion on September 24th, you told
18 me, and I quote this today, 'To this day, I have not
19 looked at any racial data.'

20 "SENATOR HUFFMAN: Correct.

21 "SENATOR POWELL: When we met, before you
22 released the proposed Senate plan, I showed you a map of
23 SD-10 showing colored shading. In fact, I showed you a
24 number of maps that were shading maps where the district's
11:20:22 25 minority populations were located; and you initialed every

1 single one of those maps with the date on it; is that
2 correct?

3 "SENATOR HUFFMAN: Senator Powell, now we're
4 going to -- we're going to -- I'm going to take you to
5 task on this one because you and I both know I made it
6 perfectly clear that I was not considering racial data.

7 "You sat down, and you handed me a document. I
8 glanced at it for less than a second. I did not know what
9 it was. When I turned the page, I realized it had racial
10 data. I turned it over flat; and I said, 'I will not look
11 at this.' You had four others.

12 "No. I'm going to finish.

13 "And I had you initial it. I initialed it. I put it
14 into a folder. My staff did not look at it. I did not
15 look at it. And I turned that folder over to the Attorney
16 General's office. Okay.

17 "You are the one who gave it to me.

18 "SENATOR POWELL: That is correct.

19 "SENATOR HUFFMAN: I did not look at it, I did
20 not read it, and I did not glean one bit of information
21 from it. So I am trying to be --

22 "SENATOR POWELL: All right.

23 "SENATOR HUFFMAN: -- very transparent here,
24 completely honest, but you need to be so, too."

25 (Defendants' Exhibit Number 65 concluded.)

1 BY MR. HILTON:

2 Q. Senator, was that an accurate recording of your
3 statements during the hearing?

4 A. Yes.

11:21:40 5 Q. And was that an accurate recording of Senator Powell's
6 questioning and statements during that hearing?

7 A. Yes.

8 Q. And was the transcript in Defendants' Exhibit Number
9 64 a substantively correct transcription?

11:21:50 10 A. Yes.

11 Q. Okay. And you stated earlier that you are invoking
12 your legislative privilege with respect to conversations
13 with other legislators, correct?

14 A. Correct.

11:22:02 15 Q. Okay. And the Rule has been invoked. Have you
16 discussed the substance of any fact testimony with anyone?

17 A. I have not.

18 Q. Or anything that's happened in the courtroom? Have
19 you discussed the substance of the testimony that was
11:22:11 20 heard here?

21 A. I have not.

22 Q. I want to make you aware that Senator Powell has
23 waived her legislative privilege and described this
24 conversation here in court.

11:22:19 25 A. All right.

1 **Q.** Do you still wish to assert your legislative
2 privilege?

3 **A.** I do.

4 **Q.** Okay. All right. The next clip that we'll play from
5 Defendants' Exhibit Number 65 corresponds to Page 51 of
6 Defendants' Exhibit Number 64, beginning on or about
7 Line 5.

8 (Defendants' Exhibit Number 65 played, as follows:)

9 "SENATOR HUFFMAN: I might have. I just don't
10 know the name. So I'm not going to say yes and pretend to
11 be an expert because I don't know that specific case.

12 "SENATOR POWELL: So are you aware, then, that
13 the courts have repeatedly said that voting in Texas is
14 racially polarized with Anglo voters mostly supporting
15 Republicans and minority voters mostly supporting
16 Democrats?

17 "SENATOR HUFFMAN: I don't know that the courts
18 have said that.

19 "SENATOR POWELL: Okay. So I -- I hear you say
20 that you didn't look at racial data; but you would agree
21 that urban areas in Fort Worth and Dallas have large
22 concentrations of minority voters, wouldn't you?

23 "SENATOR HUFFMAN: I am not going to make
24 assumptions based on race, period. All right. I have
25 followed the law, and I'm not going to get into that -- a

1 racial discussion with you. I followed the law. I have
2 done what it's required me to do, what I want it to do,
3 and I'm going to leave it at that.

4 "SENATOR POWELL: So you are basically saying
11:23:54 5 that despite serving on the redistricting committee for
6 the past two cycles and chairing the committee this cycle
7 and listening to witnesses who have testified from both
8 redistricting cycles, that you came to the process
9 completely unaware that minority voters are concentrated
11:24:15 10 in urban areas of Dallas and Fort Worth?

11 "SENATOR HUFFMAN: Senator Powell, of course I
12 have an awareness that there are minorities that live all
13 over this state. All right. But I blinded myself to that
14 as I drew these maps. I did not make map decisions based
11:24:33 15 on racial determinations, period."

16 (Defendants' Exhibit Number 65 concluded.)

17 BY MR. HILTON:

18 Q. Senator, was that an accurate recording of your
19 statements during this hearing?

20 A. Yes.

21 Q. And was that an accurate recording of Senator Powell's
22 questioning?

23 A. Yes.

24 Q. And was the transcript in Defendants' Exhibit Number
11:24:50 25 64 substantively accurate?

1 **A.** Yes.

2 **Q.** I would ask you to turn to Page 54 of the transcript
3 that is Defendants' Exhibit Number 64, and I'm just going
4 to ask you to read your first statement that appears on
5 this page of the transcript, Lines 7 to 14.

11:25:08 **A.** "I told you, Senator Powell, I drew blind to race. I
6 would suggest to you that there are -- it's a very rich,
7 diverse state and there are minorities that live
8 throughout our state and we are blessed by that. I drew
11:25:29 blind to race. So, naturally, there are going to be
10 differences in the state."

12 **Q.** Thank you, Senator. Is that a substantively accurate
13 transcription of your public statements on the floor that
14 day?

11:25:38 **A.** Yes.

16 **Q.** All right. We're going to skip ahead to Page 60 of
17 the transcript. This -- again, this is still in the
18 exchange between you and Senator Powell. And the context
19 for the conversation is a discussion of the case *Bartlett*
11:26:05 20 *v. Strickland*. And I'd ask that you read into the record
21 your statements beginning at Line 20 on Page 60 of
22 Defendants' Exhibit Number 64.

23 **A.** "I think we could. I just disagree with you and your
24 lawyers on your analysis of *Bartlett v. Strickland*. I
11:26:21 25 could also quote from them saying nothing in Section 2

1 grants special protection to a minority group's rights to
2 form political coalitions. So, again, we can interpret
3 the law differently. I have been assured, I have studied
4 it, that the maps are in compliance, and that we have
5 followed the requirements under *Bartlett v. Strickland*."

11:26:39

6 **Q.** Thank you, Senator. Is that a substantively accurate
7 transcription of your statements during that hearing?

8 **A.** Yes.

9 MR. HILTON: And again, Your Honors, the pause
10 means I'm skipping some clips and trying to conclude here.
11 I appreciate your indulgence.

12 BY MR. HILTON:

13 **Q.** All right. Senator Huffman, I'm going to ask you to
14 read another one of your statements beginning on Page 65
15 of the transcript --

16 **A.** All right.

17 **Q.** -- beginning at Line 22. This is in response to a
18 question by Senator Menendez -- or at least that is what
19 is reflected on the transcript -- regarding growth of
20 minority population in the state. That's the context for
21 what I'm asking you to read.

22 **A.** "Well, Senator Menendez, as you well know, I stated
23 several times I drew blind to race; and we did preserve
24 all the current both Black opportunity districts and
25 Hispanic or Latino opportunity districts in the existing

1 plan.

2 "I have repeatedly said -- and I think I just said
3 this to Senator Powell -- for any group to bring us
4 something that we didn't see, anything -- excuse me,
5 something we missed. We were more than willing to run a
6 VRA analysis on that, which, in fact, we have done with
7 everything submitted; and nothing submitted has indicated
8 to us that another minority opportunity district is
9 required to be drawn under the law.

10 "As you understand, of course, that it would be racial
11 gerrymandering to just draw a map based on race unless
12 there is a strong basis in evidence to believe the
13 districting decision is required in order to comply with
14 Section 2 of the Voting Rights Act."

15 **Q.** Thank you, Senator. Is that a substantively accurate
16 transcription of your response to Senator Menendez's
17 questioning during the floor debate?

18 **A.** Yes.

19 **Q.** Thank you. I'm going to turn to Page 71 of the
20 transcript, a question from Senator Gutierrez beginning on
21 Line 14. And I have just asked you to read a number of
22 lengthy quotes. So I'll do this one.

23 "SENATOR GUTIERREZ: All right. And so if a plan
24 splits fewer than 23 counties, would that be better or
25 worse?

1 "SENATOR HUFFMAN: I don't have an opinion on
2 that. It would depend upon the political makeup of
3 looking at the whole map statewide, the numbers, the
4 concerns of incumbents, constituencies. So I don't have a
5 general answer for that."

11:29:35 6 Did I read that correctly, Senator?

7 **A.** Yes.

8 **Q.** Is that an accurate -- substantively accurate
9 transcription of yours and Senator Gutierrez's statements
11:29:43 10 during the floor debate?

11 **A.** Yes.

12 **Q.** The next clip we're going to play -- again, still in
13 the exchange between you and Senator Gutierrez -- is from
14 Defendants' Exhibit Number 65; and it corresponds to
11:30:08 15 Page 84 of Defendants' Exhibit Number 64.

16 MR. CHRISTOPHER: Repeat the designation.

17 MR. HILTON: I'm sorry. Page 84 of Defendants'
18 Exhibit Number 64.

19 (Defendants' Exhibit Number 65 played, as follows:)

11:30:27 20 "SENATOR GUTIERREZ: Assuming no one loses in a
21 primary, how many of those incumbents would be returning
22 under your proposed plan?

23 "SENATOR HUFFMAN: Well, I can't predict how
24 voters will vote. I think that every senator on this
11:30:45 25 floor will have to get out and campaign and convince their

1 constituents they are deserving of another chance to
2 serve. So I'm not going to speculate on who is going to
3 come back and who is not.

4 **"SENATOR GUTIERREZ:** Under your plan, I think
11:31:02 5 that we have already determined that Senate District 10
6 would probably not be returning Senator Powell. Is that
7 accurate?

8 **"SENATOR HUFFMAN:** I do not know who the voters
9 of Senate District 10 will vote for."

11:31:14 10 (Defendants' Exhibit Number 65 concluded.)

11 BY MR. HILTON:

12 **Q.** Senator, was that an accurate recording of your
13 statements during this hearing?

14 **A.** Yes.

11:31:19 15 **Q.** And was that -- and Senator Gutierrez's, as well?

16 **A.** Yes.

17 **Q.** And is the transcription in Defendants' Exhibit Number
18 -- excuse me, Defendants' Exhibit Number 64, was that
19 substantively accurate?

11:31:32 20 **A.** Yes.

21 **Q.** Now, on Page 85 of Defendants' Exhibit Number 64, I'm
22 going to read Senator Gutierrez's question beginning at
23 Line 10. I'm going to ask you to read your response,
24 Senator.

11:31:46 25 **"SENATOR GUTIERREZ:** I think that is a

1 hypothetical plan. I'm just saying if there was a plan
2 that was created that brought back all the incumbents,
3 would that plan be better for all the incumbents?"

4 **A.** "No. I think it's better for us to have to get out
5 there and work and earn the vote of our constituents."

6 **Q.** Is that a subsequently accurate transcription of your
7 statements during the hearing?

8 **A.** Yes.

9 **Q.** And did I read my portion correctly?

10 **A.** Yes.

11 **Q.** All right. Next, we're going to do one clip from an
12 exchange between you and Senator Eckhardt. It corresponds
13 to Page 92 of Defendants' Exhibit Number 64, and the clip
14 itself is contained in Defendants' Exhibit Number 65.

11:32:35 15 (Defendants' Exhibit Number 65 played, as follows:)

16 "SENATOR ECKHARDT: -- Lieutenant Governor
17 involved in the briefing?

18 "SENATOR HUFFMAN: No.

19 "SENATOR ECKHARDT: You -- you have mentioned and
20 have been very assiduous about this, that you were
21 color-blind in your dealings with the map.

22 "SENATOR HUFFMAN: Yes, ma'am.

23 "SENATOR ECKHARDT: Who advised you and your
24 committee to never open the racial shading of RedAppl?

25 "SENATOR HUFFMAN: Again, I am not going to

1 discuss any, you know, specific discussions I had with
2 attorneys. But I have read the law and I know the law and
3 I believe the law to require me to draw the maps blind to
4 race unless, again, there is a strong basis in evidence to
5 believe the districting decision is required to comply
6 with the Voting Rights Act, Section 2. It otherwise would
7 be a racial gerrymander."

8 (Defendants' Exhibit Number 65 concluded.)

9 BY MR. HILTON:

10 Q. Senator, was that an accurate recording of your
11 statements and Senator Eckhardt's questions?

12 A. Yes.

13 Q. And is the transcript that corresponds to that
14 recording substantively accurate, as well?

15 A. Yes.

16 Q. Okay. Next, we're going to go to an exchange between
17 you and Senator West. The clip that I would like to play
18 corresponds to Page 95 of the transcript that's in
19 Defendants' Exhibit Number 64, and the clip itself is a
20 portion of Defendants' Exhibit Number 65.

21 A. Okay.

22 (Defendants' Exhibit Number 65 played, as follows:)

23 "SENATOR WEST: -- that ended up being the
24 occurrence and outcome when race was never considered at
25 all. It just -- it just seems ironic to me.

1 "Now, you mentioned a second ago that race should only
2 be considered when there is a strong basis that would
3 require you to look at race. Were there any strong bases
4 in your drafting of this map that you thought that race
5 should be looked at?

11:34:35 6 "SENATOR HUFFMAN: There has been none. As I
7 said, we drew the maps blind to race. Then we asked the
8 Attorney General for a legal analysis whether we had
9 followed the Voting Rights Act. We were assured that we
10 did.

11 " And then I continued to say if someone has something
12 to bring me that would lead us to believe there was a
13 strong basis in evidence, then we would proceed
14 accordingly. We also made sure that -- oh, yes. And we
15 also made sure that we looked at, once the maps were drawn
16 and I was assured that the -- both the two Black
17 opportunity districts in the existing plan and the seven
18 Hispanic or Latino opportunity districts in the existing
19 plan have been honored, and was assured by legal counsel
11:35:10 20 that we had complied with all laws.

21 "SENATOR WEST: And again, I'm not going to go
22 back over the analysis of 10. Did you consider Senate
23 District 10 a crossover or a -- or a coalition district?

24 "SENATOR HUFFMAN: We did not consider race in
11:35:46 25 the drawing of Senate District 10.

1 "SENATOR WEST: Okay. So in terms -- what is a
2 coalition district?

3 "SENATOR HUFFMAN: Well, you know, there is -- I
4 believe it's when you -- it's, again, not required, I
5 believe, under the law; but I believe it has been defined
6 previously as different minority groups that band together
7 to elect their candidate of choice. That's how it has
8 been used in the past. Whereas, a crossover district is
9 when the majority in the district crosses over to vote
10 with the minorities to help the minorities elect -- yeah,
11 to form a political coalition to elect their candidate of
12 choice.

13 "SENATOR WEST: So then in terms of your drawing
14 and your staff's drawing of this map, you didn't take into
15 consideration at all whether or not there were coalition
16 or crossover districts?

17 "SENATOR HUFFMAN: I did not look at that, no.
18 No, sir. Because that would have been considering racial
19 data improperly and illegally.

11:36:44 20 "SENATOR WEST: Okay. Sorry.

21 "SENATOR HUFFMAN: And illegally.

22 "SENATOR WEST: So as in relation to the Voting
23 Rights Act, race was never considered at all? I just want
24 to make certain.

11:36:53 25 "SENATOR HUFFMAN: That's not what I said.

1 "SENATOR WEST: No. That is --

2 "SENATOR HUFFMAN: I said that we drew the maps
3 blind. And then I -- I looked at some data myself after
4 everything was done. In fact, that was, I think,
5 yesterday, if not the day before. I think it was
6 yesterday. But I had been advised that I had complied
7 with the Voting Rights Act as they applied to the minority
8 opportunity districts that currently exist in the state of
9 Texas, like your district, Senator West.

10 " And as you know, I have worked with you when you came
11 to me with some tweaks you wanted with precincts. I was
12 very committed to working with you with your -- with your
13 communities.

14 "SENATOR WEST: So race was never considered at
15 all for Voting Rights Act compliance?

16 "SENATOR HUFFMAN: As I said --

17 "SENATOR WEST: Other than -- other than as
18 relates to the existing districts?

19 "SENATOR HUFFMAN: To verify that, in fact, that
20 we had honored the Voting Rights Act under Section 2 to
21 honor the existing minority opportunity districts in the
22 state of Texas."

23 (Defendants' Exhibit Number 65 concluded.)

24 BY MR. HILTON:

25 Q. Senator, was that an accurate recording of your

1 statements during the hearing?

2 **A.** Yes.

3 **Q.** And was that an accurate recording of Senator West's
4 questions?

11:37:57 5 **A.** Yes.

6 **Q.** And was the transcript substantively accurate?

7 **A.** Yes.

8 **Q.** Senator, we have two more clips --

9 **A.** Okay.

11:38:06 10 **Q.** -- that we're going to play. The first one
11 corresponds to Page 132 of Defendants' Exhibit Number 64.
12 I'm going to represent to you that this is in the -- your
13 statements here are in the context of an amendment
14 proposed by Senator Powell. I would like you to review
15 the transcript and satisfy yourself that that is the
16 context for your statements as they appear in Defendants'
17 Exhibit Number 64.

18 **A.** Yes, they do.

19 **Q.** Okay.

11:38:33 20 MR. HILTON: And so, Brian, could you pull that
21 up, please.

22 (Defendants' Exhibit Number 65 played, as follows:)

23 "CHAIRMAN: Chair recognizes Senator Huffman on
24 the amendment.

11:38:45 25 "SENATOR HUFFMAN: Members -- thank you very

1 much, Senator Powell, for your presentation; but I will be
2 respectfully voting against this amendment for several
3 reasons.

4 "First, it proposes changes to multiple districts in
11:38:58 5 the DFW area without the agreement of all impacted
6 members. In fact, it jeopardizes the ability of a
7 Republican candidate to continue to be elected in Senate
8 District Number 9. I do not believe Senator Hancock was
9 consulted or spoken with about this amendment.

11:39:14 10 "Second, it maintains SD-10's current configuration,
11 which limits the adjustments we can make throughout the
12 DFW area to accommodate statewide growth over the past
13 decade and other redistricting priorities and objectives.

14 "Third, Plan S-132 by Senator Powell overpopulates
11:39:34 15 SD-9 at 983,861, which is more than 40,000 above the ideal
16 district size, and SD-30 at 971,291, which is more than
17 30,000 above the ideal district size.

18 "Finally, with all due respect to those who have
19 argued in favor of selecting SD-10's configuration on the
11:39:57 20 basis of race, I do not believe that we can or should make
21 redistricting decisions based on race unless we have a
22 legally sufficient justification.

23 "In addition to seeking legal advice, the substance of
24 which I cannot comment on, I undertook my own review of
11:40:13 25 the facts and the data; and I find no basis in evidence to

1 believe that Section 2 of the Voting Rights Act requires
2 the configuration of SD-10 that is proposed in Plan
3 S-2132.

4 "This is because in this proposed SD-10, Asian voting
11:40:32 age population is 5.5 percent, Black voting age population
5 is 20.3 percent, and Hispanic voting age population is
6 28.8 percent.

7 "As no minority group forms a majority that could
8 control the outcome of an election in the proposed
11:40:47 10 district, the threshold requirement for a Section 2
11 required district is not met.

12 "I will also add that because there has been some
13 commentary about the number of people in Tarrant County, I
14 want to make it clear that in this -- in this Senate's
11:41:05 15 proposed map 627,530 of 961,525 do reside in Tarrant
16 County. That is 65.3 percent of the population will be in
17 Tarrant County.

18 "Because I do not believe the proposed changes are
19 required by law and because I want to accommodate the
11:41:26 20 objectives in redistricting I have discussed throughout
21 this process, I am respectfully voting no on this
22 amendment."

23 (Defendants' Exhibit Number 65 concluded.)

24 BY MR. HILTON:

11:41:34 25 Q. Senator, was that an accurate recording of your

1 statements on the floor?

2 **A.** Yes.

3 **Q.** And was the transcript in Defendants' Exhibit Number
4 64 a substantively accurate transcription?

11:41:45 5 **A.** Yes.

6 **Q.** The last clip that we're going to play, Senator, is on
7 Page 142 of this transcript. I'll represent to you that
8 your statements here are in the context of another
9 amendment proposed by Senator Powell that I'd like for you
10 to satisfy yourself on the context of the transcript as it
11 appears in Defendants' Exhibit Number 64, that that is the
12 context for your statements.

13 (Defendants' Exhibit Number 65 played, as follows:)

14 "UNIDENTIFIED SPEAKER: Any more lights? No.

11:42:17 15 Senator Huffman.

16 "SENATOR HUFFMAN: Thank you, Mr. President and
17 members."

18 (Defendants' Exhibit Number 65 concluded.)

19 BY MR. HILTON:

11:42:17 20 **Q.** Senator, is that the correct context for your
21 statements?

22 **A.** I'm checking the record. It appears to be, yes.

23 **Q.** Thank you, Senator.

24 MR. HILTON: Go ahead, Brian.

11:42:26 25 (Defendants' Exhibit Number 65 played, as follows:)

1 "SENATOR HUFFMAN: I will be respectfully voting
2 no to this Plan 2134. It's very similar. Like my reasons
3 for voting no, like in S-2132, this map proposes changes
4 to multiple districts in the DFW area without the
5 agreement of all impacted members. It overpopulates
6 several districts, SD-12, plus 30, and proposes a
7 race-based draw without a legally sufficient
8 justification. Reviewing the data, we have determined
9 there is no minority group that forms a majority that
10 could control the outcome of an election in the proposed
11 district. The threshold requirement for a Section 2
12 required district is not met.

13 "Thus, in order to accommodate redistricting
14 objectives I have discussed throughout the process for
15 much the same reasons I voted against Plan S-2132, I will
16 be respectfully voting against the amendment, as well."

17 (Defendants' Exhibit Number 65 concluded.)

18 BY MR. HILTON:

19 Q. Senator, was that an accurate recording of your
20 statements on the floor?

21 A. Yes.

22 Q. And was the corresponding transcript in Defendants'
23 Exhibit Number 64 substantively accurate, as well?

24 A. Yes.

25 Q. And, Senator, I just -- that's the last clip I'm going

1 to play, and that concludes my examination. I just want
2 to make clear for the record we're back to where we began
3 with your legislative privilege.

4 Did you maintain your legislative privilege at all
11:43:48 5 times today?

6 **A.** Yes.

7 **Q.** Did you disclose any legislative privileged
8 information?

9 **A.** I did not.

11:43:54 10 MR. HILTON: Pass the witness. Thank you, Your
11 Honors.

12 JUDGE GUADERRAMA: Thank you.

13 Mr. Dunn.

14 MR. DUNN: Your Honor, I'm ready to proceed.
11:44:00 15 Could we have a short break?

16 JUDGE GUADERRAMA: Sure. Let's go ahead and
17 recess for 15. We'll be back at noon and start up at
18 noon.

19 (Recess from 11:44 a.m. to 12:00 p.m.)

12:01:11 20 JUDGE GUADERRAMA: Be seated, please.

21 Mr. Dunn.

22 MR. DUNN: Thank you, Your Honor.

23 **CROSS-EXAMINATION**

24 BY MR. DUNN:

12:01:17 25 **Q.** Nice to see you again, Senator. Chad Dunn.

1 **A.** Good to see you, sir.

2 **Q.** We met, I believe, for the first time last Friday at
3 your deposition. Does that sound right to you?

4 **A.** Yes, sir.

12:01:25 5 **Q.** At your deposition you were subpoenaed; is that a
6 fact?

7 **A.** Yes.

8 **Q.** Your lawyers accepted the subpoena and also asked you
9 to bring some documents. Does that all sound true to you?

12:01:37 10 **A.** They did not ask me to bring documents; but, yes, they
11 were subpoenaed for me.

12 **Q.** Did you ever actually lay your eyes on the subpoena?

13 **A.** No.

14 **Q.** Did anybody ever ask you to go search for some
15 documents?

16 **A.** Yes.

17 **Q.** And did you do so?

18 **A.** I did.

19 **Q.** And have you turned over all the documents that were
20 responsive to the subpoena?

21 **A.** I did not have anything in my possession, personal
22 possession.

23 **Q.** So you had no items left regarding the redistricting
24 process?

12:02:03 25 **A.** It's all kept --

1 MR. HILTON: Objection, Your Honor.

2 Mischaracterizes the scope of the subpoena. Mr. Dunn,
3 furthermore, hasn't objected to our production in response
4 to the subpoena. So to the extent that he is suggesting
5 that there are documents that should have been turned over
6 and weren't, this is the first that I am hearing about it.
7 If he is going to characterize the scope of the subpoena,
8 I don't think it's appropriate for the witness to testify
9 about that because ultimately that's also going to get
10 into attorney-client privilege areas.

11 MR. DUNN: I'll rephrase, Your Honor.

12 JUDGE GUADERRAMA: All right. Thank you,

13 Mr. Dunn.

14 BY MR. DUNN:

15 Q. As far as you understand, everything you had or could
16 have that was responsive to the subpoena, you turned over?

17 A. Yes.

18 Q. But you had nothing?

19 A. Personally in my personal possession, no.

20 Q. Where else were documents found, if any?

21 A. Everything was kept, to my knowledge, in the
22 redistricting office or in the offices of the Senate.

23 Q. Was there a person assigned to collect those materials
24 and produce them?

25 A. That would have been Sean Opperman.

1 **Q.** And he did that recently?

2 **A.** Yes.

3 **Q.** And now, your testimony today, did you receive a
4 subpoena to be here?

12:03:07 5 **A.** I did not personally receive it.

6 **Q.** Are you aware of one?

7 **A.** Yes.

8 **Q.** Issued by whom?

9 **A.** I really don't know. My attorneys told me I needed to
12:03:17 10 be here, and I am here.

11 **Q.** Well, under Rule 45, my understanding is that the
12 parties have to be served with a subpoena before it's
13 served on the witness. I haven't received any such
14 subpoena. Is it possible you are mistaken?

12:03:29 15 **A.** My lawyers asked me to be here. I don't know if it
16 was via subpoena. I willingly came to engage in the
17 process; but I don't know about the subpoena, to be
18 perfectly honest.

19 **Q.** You can't say whether you are here voluntarily or
12:03:44 20 required?

21 **A.** I'm definitely here voluntarily, sir.

22 **Q.** All right. I see. That's where we're getting.

23 **A.** Okay.

24 **Q.** You chose today to come testify before this Court
12:03:50 25 about what you have given in testimony to Mr. Hilton; is

1 that true?

2 **A.** Yes. Yes.

3 **Q.** And you have an attorney Mr. Hilton; is that right?

4 **A.** Yes.

12:03:57 5 **Q.** That's who showed up at the deposition for you; is
6 that true?

7 **A.** Correct.

8 **Q.** And that was also the lawyer that you referenced
9 during the Senate debates was advising you; is that a
12:04:07 10 fact?

11 **A.** Yes.

12 **Q.** You also mentioned having some other lawyers, Anna
13 Mackin and Sean Opperman, on your staff; is that true?

14 **A.** Yes.

12:04:12 15 **Q.** They gave you legal advice along the way?

16 **A.** Yes.

17 MR. HILTON: I'm going to object to the extent it
18 could be construed to call for the content of any
19 communication. I'm also going to --

12:04:21 20 JUDGE GUADERRAMA: He asked if they gave legal
21 advice. He is not asking about content. So I'll overrule
22 the objection.

23 MR. HILTON: Understood, Your Honor. I'd also
24 like to object it could be construed to go to legislative
12:04:33 25 privileged information. I believe she has referred to all

1 of these things on the floor of the Senate and in public
2 statements. I just want to clarify to the extent there is
3 any legislative privilege information that could be here
4 that she is referring to her public statements. Thank
5 you, Your Honor.

12:04:45

6 JUDGE GUADERRAMA: All right.

7 BY MR. DUNN:

8 Q. We'll get to talking about legislative privilege here
9 in a moment. I'm just focused on your lawyers. You had
10 Anna Mackin and Sean Opperman on your staff; is that
11 right?

12 A. Yes.

13 Q. And then you had Mr. Hilton advising you in the
14 process; is that true?

15 A. Yes.

16 Q. And you mentioned at your deposition you had two other
17 lawyers named Scott and Todd. That's all you could
18 remember of them; is that true?

19 A. Yes.

12:05:07

20 Q. In your preparations to come in here and testify
21 today, have you been able to recall the rest of Scott and
22 Todd's names?

23 A. No.

24 Q. Do you know where they are from?

12:05:17

25 A. I believe they now office in Austin, though I do know

1 they had worked in the D.C. area, as well. And they may
2 still currently have an office there.

3 **Q.** Can you recall anything else about them that might
4 identify them?

12:05:32 5 **A.** The record -- on the record -- in the public record
6 their official law firm name was stated. So it's there.
7 I just can't recall it right now, to be honest. I'm not
8 going to make it up.

9 What else do I know about them? They were well
12:05:49 10 schooled in redistricting. I believe at least one of them
11 had clerked for a Supreme Court Justice. They had worked
12 extensively in the redistricting area in the past.

13 **Q.** So you have had excellent counsel throughout this
14 process?

12:06:05 15 **A.** Yes.

16 **Q.** And there is nothing wrong with that, right?

17 **A.** I don't think so.

18 **Q.** It's a complicated area of the law?

19 **A.** Extremely, yes, sir.

12:06:13 20 **Q.** And yourself, as a lawyer, I assume you had no
21 experience with it before you joined the legislature?

22 **A.** Correct. Yes, sir.

23 **Q.** Based upon your testimony here, it sounds like you
24 have had an exemplary career as a prosecutor and then a
12:06:26 25 judge and now you are a state senator.

1 Does that sound about right?

2 **A.** Yes, sir.

3 **Q.** From what I hear, you were a formidable trial lawyer
4 at the time?

12:06:34 5 **A.** I don't know about that; but I have worked hard, yes,
6 sir.

7 **Q.** Well, you and I both attended the same law school. It
8 turns out some trial lawyers; would you agree?

9 **A.** Yes, it does. Yes, sir.

12:06:43 10 **Q.** And so, ultimately, you had those skills available to
11 you when you engaged in this redistricting process; is
12 that right?

13 **A.** Yes.

14 **Q.** You have read a bunch of cases and statutes over the
15 course of your career?

16 MR. HILTON: Your Honor, I'm just going to object
17 to the extent that it calls for inquiry into what she
18 considered as part of the legislative process. If he is
19 asking generally about her career, I don't have an
20 objection. But the question was broad as stated, and I
21 don't want to encroach on legislative privilege.

22 MR. DUNN: I'll rephrase, Your Honor.

23 JUDGE GUADERRAMA: Yes, sir.

24 BY MR. DUNN:

12:07:12 25 **Q.** You are experienced reading cases of any nature, legal

1 cases; is that true?

2 **A.** Am I experienced? I didn't hear you.

3 **Q.** Are you experienced at reading legal cases on a
4 variety of subjects?

12:07:21 5 **A.** I have in the past, yes, sir.

6 **Q.** And I would imagine as a judge you had to read a
7 number of briefs, probably thousands of pages of them?

8 **A.** Not so much as a district court judge, as a trial
9 judge, but occasionally there would be instances,
10 opportunities to do so.

11 **Q.** And so, ultimately, when you read a court decision and
12 you have available to you appropriate counsel, you are
13 able to make an understanding of it?

14 MR. HILTON: Objection to the extent it calls for
15 attorney-client privileged information. I don't know what
16 "make an understanding of it" means.

17 JUDGE GUADERRAMA: I'm not sure what exactly that
18 objection is. I'm going to overrule it.

19 **A.** Could you repeat the question, sir?

12:08:01 20 BY MR. DUNN:

21 **Q.** Sure. Can you make an understanding of cases, even
22 complicated ones, when you read them?

23 **A.** Can I make an understanding?

24 **Q.** Yes.

12:08:09 25 **A.** I attempt to make an understanding, yes, sir.

1 **Q.** Now, in the course of your work as a judge, did you
2 ever come across the Doctrine of Willful Blindness?

3 **A.** No.

4 **Q.** How about as a prosecutor?

12:08:18 **A.** No.

6 **Q.** You are aware that there are a number of areas of the
7 law where a person decides to be willfully blind to
8 something and then they're -- the courts determine that
9 they remain culpable? This is news to you?

12:08:30 **A.** I'm not familiar with the term or the thought process,
11 no, sir.

12 **Q.** Have you ever met a person or spoke to a person named
13 Kevin Sparks?

14 **A.** Have I ever -- please repeat.

12:08:51 **Q.** Have you ever met or spoken to Kevin Sparks?

16 **A.** No.

17 **Q.** Do you know who he is?

18 **A.** Yes.

19 **Q.** Who is he?

12:08:57 **A.** I believe he is a candidate for the State Senate in
20 the Republican primary for the Senate seat that is
21 currently held by Senator Kel Seliger.

23 **Q.** Senator Seliger has testified here that Mr. Sparks and
24 the Lieutenant Governor were working together to get his
25 district drawn in such a way as to elect Mr. Sparks. Do

1 you have any knowledge about that?

2 **A.** No.

3 **Q.** Have you had any discussion with the Lieutenant
4 Governor about that subject?

12:09:27 5 MR. HILTON: I'm going to object to the extent
6 that it necessarily calls for inquiry into the subject
7 matter of a discussion with the Lieutenant Governor. If
8 the question is has she had a discussion with the
9 Lieutenant Governor, I don't have an objection; but
12:09:41 10 embedded within the question is the question about the
11 content of conversations with the Lieutenant Governor.

12 JUDGE GUADERRAMA: All right. So the question is
13 just has she had a conversation? You can ask her that.

14 MR. DUNN: The question is: Has she had a
12:09:53 15 conversation with the Lieutenant Governor about Kevin
16 Sparks?

17 MR. HILTON: I don't object to that question.

18 JUDGE GUADERRAMA: All right. You can answer
19 that.

12:10:01 20 **A.** Ever?

21 BY MR. DUNN:

22 **Q.** Yes.

23 **A.** Yes.

24 **Q.** And what did you discuss?

12:10:04 25 MR. HILTON: I object. That goes squarely to

1 legislative privilege. To the extent that the question
2 has to be asked, you know, with a high level of generality
3 description, that would appear on a privileged log. That
4 was the first question. But this is squarely directed to
5 the content of the communication, and so it goes to
6 legislative privileged information.

7 JUDGE GUADERRAMA: If they were talking about
8 wild horses, that would go to legislative privilege?

9 MR. HILTON: A conversation between the Senator
10 and Lieutenant Governor, if it's legislative privilege, if
11 it's about legislative acts would certainly be privileged.
12 So if this is a conversation here that's not about
13 legislative acts as relates to Kevin Sparks, that would
14 not be covered.

15 JUDGE GUADERRAMA: All right. So you can answer
16 that in relation to anything that was not regarding any
17 legislative acts.

18 THE WITNESS: Your Honor, may I consult with my
19 attorney?

20 JUDGE GUADERRAMA: Sure. If it's regarding the
21 privilege, yes.

22 THE WITNESS: Pardon?

23 JUDGE GUADERRAMA: Are you her personal counsel?

24 MR. HILTON: I do represent Senator Huffman here
25 today. If the Court would permit me to consult her about

1 a privileged matter, I would like to do so.

2 JUDGE GUADERRAMA: Okay. Sure.

3 MR. HILTON: And where should -- should I come up
4 to the witness stand, or what?

12:11:20 5 JUDGE GUADERRAMA: If you need some privacy, you
6 can go around the back into that corridor.

7 MR. HILTON: Thank you, Your Honor. I appreciate
8 the opportunity to do that.

9 THE WITNESS: Thank you, Your Honor.

12:12:04 10 (Sotto voce discussion between counsel and the
11 witness.)

12 MR. HILTON: Thank you, Your Honors.

13 JUDGE GUADERRAMA: All right. Mr. Dunn, maybe
14 you can restate your question.

12:12:43 15 MR. DUNN: I will do so, Your Honor.

16 BY MR. DUNN:

17 Q. What was the discussion you had with the Lieutenant
18 Governor about Kevin Sparks?

19 A. Very recently I informed the Lieutenant Governor that
12:12:53 20 this litigation was pending, that there would be this
21 hearing in El Paso, and that Mr. Sparks was on the witness
22 list, as I understood it.

23 Q. Was that the first time you had a conversation with
24 the Lieutenant Governor about Sparks?

12:13:08 25 A. I am trying -- I'm really trying to remember. I

1 believe so, but I'm not positive.

2 **Q.** Was that the first time you had a conversation with
3 the Lieutenant Governor about a challenger to Senator
4 Seliger?

12:13:33 5 **A.** No.

6 **Q.** When was the first of those?

7 **A.** I don't recall.

8 **Q.** Would it have been before 2168 was passed?

9 **A.** Again, I'm thinking very carefully. There was a lot
10 going on at that time period. I don't recall.

11 **Q.** Well, when you went out and went to work to draft the
12 plans for the Senate, did you know the Lieutenant Governor
13 was working to defeat Senator Seliger?

14 **A.** No.

12:14:20 15 **Q.** Did you know that the Lieutenant Governor wanted his
16 district refashioned in such a way that would make it
17 harder for Senator Seliger to gain re-election?

18 MR. HILTON: Your Honor, I object to that
19 question. It goes to a legislative act. The question
20 relates to legislative priorities about how legislation
21 would be drafted, specifically Senator Seliger's district.
22 So that's squarely within the legislative privilege. It's
23 both communications with other legislators, Lieutenant
24 Governor, president of the Senate, and her mental
25 impressions.

1 JUDGE GUADERRAMA: I'm going to sustain that
2 objection.

3 BY MR. DUNN:

4 **Q.** Are you invoking your privilege, Senator?

12:14:54 5 **A.** Yes.

6 **Q.** At your deposition we talked, and you have an
7 understanding of who it is that can invoke legislative
8 privilege and who can waive it; is that true?

9 **A.** Yes, sir.

10 **Q.** And you understand it's your privilege to waive it?

11 **A.** I do understand that.

12 **Q.** You know that Senator Powell has waived hers?

13 **A.** I believe that's been stated today, yes, sir.

14 **Q.** And you are not invoking your legislative privilege
15 because the Attorney General's office is asking you to do
16 so, are you?

17 MR. HILTON: I'm going to object to the extent
18 that's going into attorney-client privilege communication.
19 He just asked what the Attorney General asked her to do.

12:15:21 20 JUDGE GUADERRAMA: Right. Just so it's clear,
21 Senator -- I'm sure you understand -- it's your privilege,
22 not the Attorney General's or your counsel who is the
23 Attorney General. It's your privilege to raise it. If
24 you raise it, you raise it. For whatever reasons you
25 raise it for, that's your reasons.

1 THE WITNESS: Yes, sir. I do understand. Thank
2 you, sir.

3 JUDGE GUADERRAMA: All right.

4 BY MR. DUNN:

12:15:45 5 Q. All right. I would like to call your attention to
6 your district, Senate District 17; is that correct?

7 A. Yes, sir.

8 Q. It should come up here on your screen momentarily.
9 I'm going to start with the -- I'm showing you here what
12:16:19 10 is a screenshot in District Viewer of Plan 2100. Does
11 that -- do you recognize Senate District 17 as the
12 orientation of your district under the benchmark map?

13 A. Yes, I do.

14 Q. Can you tell us where the core of this district is?

12:16:32 15 A. It's Harris County.

16 Q. Around your residence?

17 A. It stretches through -- Harris County is very large,
18 over 4 million people. It stretches through parts of
19 Harris County out towards the western side but also near
12:16:51 20 my residence, as well.

21 Q. But to the extent changes need to be made to your
22 district, as long as the Harris County portions of it
23 remain current, you would believe the core of your
24 district was preserved?

12:17:02 25 MR. HILTON: I'm going to object to that to the

1 extent it calls for legislative privileged information.

2 He is asking about changes to the district that
3 necessarily entails redistricting and legislative acts.

4 If he is asking a factual question about what she
5 considers to be a core of her district, I believe that's
6 not a legislative act; but the way the question was
7 phrased, I feel like I have to object.

8 JUDGE GUADERRAMA: All right, Mr. Dunn. You can
9 ask her what her definition is of what she believes the
10 core of her district is.

11 BY MR. DUNN:

12 Q. What do you believe is the core of your district?

13 A. I still believe that Harris County is the core of the
14 district.

15 Q. Now, when this -- when this district was drawn, your
16 district had previous -- in the previous decade become
17 competitive, is that right, politically?

18 A. Which decade are you referring to, sir?

19 Q. The decade of 2000 to 2009.

20 A. Yes.

21 Q. And when this district was drawn, there was a
22 discussion then on the Senate floor. In fact, Senator
23 Ellis raised the concern that his district had been
24 packed, Number 13, to accommodate your re-election in
25 Senate District 17. Do you recall that?

1 **A.** No.

2 **Q.** In 2011 your district was redrawn significantly again.
3 Would you agree -- I mean, excuse me, 2021, last fall, it
4 was redrawn again; would you agree?

12:18:13 **A.** Yes.

6 MR. HILTON: Your Honor, I apologize. I have to
7 object to this. This is well beyond the scope of direct.
8 So to the extent that he is leading the witness, I believe
9 that's improper. Also, it has really nothing to do with
10 issues before the Court today.

11 JUDGE GUADERRAMA: Well, if it's beyond the scope
12 of the direct, then I'll ask you not to lead.

13 MR. DUNN: She was asked a number of statements
14 that she read into the record about what she considered to
15 be the requirements of the district in terms of drawing
16 race-blind and following her principles, and we're testing
17 those principles with respect to Senate District 17.

18 JUDGE GUADERRAMA: I don't think that particular
19 district was invoked when they directed her on that. So
20 since it's outside the scope, you will have to -- you can
21 ask it, but you can't lead her.

22 MR. DUNN: I'm sorry. I didn't hear the last
23 thing.

24 JUDGE GUADERRAMA: You can ask her, but you
25 cannot lead her under the rule.

1 MR. DUNN: Understood.

2 BY MR. DUNN:

3 Q. I have here, then, on the screen Senate District 17 in
4 2168. Do you see that?

12:19:05 5 A. Yes, I do.

6 Q. What were the changes that were made to your district?

7 A. There were some changes -- there were some changes
8 made in Harris County, some in Fort Bend County, some in
9 Brazoria County, and then additional counties -- parts of
10 Waller County were added and parts in all of Colorado,
11 Wharton, Jackson, Matagorda were added.

12 Q. All right. A substantial change to your district, you
13 would agree?

14 A. The core of the district is still Harris County.

12:19:43 15 Q. Can you identify in here in the Harris County portion
16 where, generally, your residence is?

17 A. Well, I live very near the Galleria area. So if you
18 look at where 610 and 59 begin to go south, it's slightly
19 north of that outside the 610 Loop. So probably kind of a
20 little closer to 610. Right in that area. The Galleria
21 area, if you are familiar with The Galleria.

22 Q. Right about where the cursor is on the screen?

23 A. Yes.

24 Q. Ultimately, the district squeezes between two others,
12:20:06 25 heads out towards west Harris County, and then heads down

1 to the counties you mentioned; is that right?

2 **A.** Correct, sir.

3 **Q.** Now, do you recall Mr. Potter, the state demographer?

4 **A.** I recall him, yes, sir.

12:20:48 5 **Q.** And I believe there is testimony from you earlier here
6 today that he attended at least one of the committee
7 hearings?

8 **A.** He attended several, yes, sir.

9 **Q.** And you have produced, or at least the government has
12:20:59 10 produced on your behalf, a number of files, including this
11 one here on the screen, which is a PowerPoint presentation
12 that's been admitted as Brooks Exhibit 104 that has a
13 number of racial shade charts. You are aware of those?

14 **A.** I see them before me, yes.

12:21:12 15 **Q.** And you recall that Mr. Potter came before a number of
16 the redistricting committee's hearings in advance of the
17 release of the census and gave this presentation on
18 multiple occasions?

19 **A.** With the ACS numbers, yeah.

12:21:25 20 **Q.** And that's why, when we look at the top of this, it
21 has ACS numbers from 2013 to 2017. Those were the most
22 current available at the time of the field hearings. Is
23 that right?

24 **A.** Yes.

12:21:36 25 **Q.** Now, you'll note here in Harris County I have shown

1 the Harris County region with an Asian population shade
2 map. Do you see that?

3 **A.** I see a shaded map, yes.

4 **Q.** Would you have any dispute that that is shading the
5 Asian population, if you look at the title?

6 **A.** I can read it, yes, sir. That's what it says.

7 **Q.** And ultimately down here, where you can hardly read
8 Sugar Land, that's Fort Bend County; would you agree?

9 **A.** Yes.

10 **Q.** Fort Bend County has been trending Democratic; is that
11 true?

12 **A.** Yes.

13 **Q.** And it's recently elected an Asian-American county
14 judge; is that right?

15 MR. HILTON: Your Honor, I'm going to object to
16 leading again. This is well outside the scope of direct.

17 JUDGE GUADERRAMA: Sustained.

18 BY MR. DUNN:

19 **Q.** Who was the county judge elected in Fort Bend County?

20 **A.** His name is K.P. George.

21 **Q.** What is his race or ethnicity, if you know?

22 **A.** I don't know.

23 **Q.** Now, I have set beside this a map of your district,
24 Senate District 17, next to the Asian population shade map
25 on the left. How would you describe the cut your district

1 makes through that portion of Fort Bend County?

2 **A.** I don't understand the question.

3 **Q.** Well, would you say that the area that cuts through
4 Fort Bend County bisects the significant Asian-American
5 neighborhoods there?

6 **A.** I can't tell from this, sir.

7 **Q.** Let me show you the Plan 2168 of Senate District 17
8 and a portion of it that goes through Fort Bend County.
9 Can you see that?

10 **A.** Yes.

11 **Q.** How would you describe the cut there to the rural
12 counties in comparison to the benchmark plan?

13 **A.** I can't answer that either. If you could repeat the
14 question, maybe I could understand it better.

15 **Q.** Would you describe it as narrower?

16 **A.** The cut that goes from Harris County through Fort --
17 into Fort Bend and then down to Brazoria?

18 **Q.** Between the purple and pink areas.

19 **A.** Do I think it's narrow? Not necessarily.

20 **Q.** Do you think it's narrower than the benchmark?

21 **A.** I don't recall specifically what the benchmark looks
22 like, but I don't think it's much different.

23 **Q.** I've placed it on the screen. Does it look narrower
24 to you now?

25 **A.** It looks slightly narrow. There are some changes, but

1 I couldn't tell you specifically how many precincts there
2 are. It doesn't look like a huge number.

3 **Q.** Now, Senate District 10 in the recent presidential
4 election, Trump lost that Senate district, didn't he?

12:24:21 5 **A.** Which Senate district?

6 **Q.** Yours.

7 **A.** 17?

8 **Q.** Yes, ma'am.

9 **A.** Yes.

12:24:26 10 **Q.** Lieutenant Governor Patrick lost your district; is
11 that right?

12 **A.** I don't recall.

13 MR. HILTON: Again, objection. Leading.

14 JUDGE GUADERRAMA: Sustained.

12:24:32 15 BY MR. DUNN:

16 **Q.** Do you recall any other candidates that didn't
17 prevail, any other Republican statewide or national
18 Republicans that didn't prevail?

19 **A.** No.

12:24:42 20 **Q.** And you mentioned your lawyer had you read a statement
21 that you made on the floor that -- to the effect of you
22 couldn't accommodate every one of the senators. And, in
23 fact, there were many changes that you still wanted to
24 make to your district; but you did the best you could.

12:24:59 25 Do you remember something to that effect?

1 **A.** Yes.

2 **Q.** Is this the best you could do with your district?

3 MR. HILTON: Objection, Your Honor. Goes to the
4 core of legislative privilege. It's asking about her
5 mental impressions and her opinion regarding legislation.

6 JUDGE GUADERRAMA: I'll sustain the objection.

7 BY MR. DUNN:

8 **Q.** Let's look at the Panhandle.

9 **A.** At the what, sir? I'm sorry.

10 **Q.** At the Panhandle.

11 **A.** Yes, sir.

12 **Q.** You spent a lot of time working on the Panhandle
13 orientation; would you agree?

14 MR. HILTON: Objection, Your Honor. If he is
15 asking what Senator Huffman spent a lot of time working on
16 as it relates to a legislative act, I believe that could
17 fall within the privilege. If he could restate the
18 question, perhaps I wouldn't have an objection.

19 JUDGE GUADERRAMA: All right. Mr. Dunn.

20 BY MR. DUNN:

21 **Q.** The Panhandle was a central concern of yours as the
22 Chair of the Redistricting Committee, would you agree,
23 because it was underpopulated?

24 MR. HILTON: Objection, Your Honor. He is asking
25 about Senator Huffman's concerns as a legislator regarding

1 legislation that she had in her consideration.

2 MR. DUNN: I'll rephrase, Your Honor.

3 JUDGE GUADERRAMA: All right. Yes, sir.

4 BY MR. DUNN:

12:26:12 5 Q. What attention -- what degree of attention did you put
6 to the Panhandle in this redistricting project?

7 MR. HILTON: Same objection, Your Honor. He is
8 asking for her mental opinions, deliberations and her
9 considerations.

12:26:22 10 JUDGE GUADERRAMA: Sustained.

11 BY MR. DUNN:

12 Q. You received a number of pieces of public comment, is
13 that right, throughout the -- I'm sorry. Go ahead.

14 A. Yes.

12:26:35 15 Q. Okay. One of the things that, in fact, was discussed
16 here and the Court has heard, Senator Seliger gave a
17 speech on the floor about the reason he was given for the
18 restructuring of his district was to create an oil and gas
19 and agriculture district. Do you remember that?

12:26:51 20 A. Do I remember his speech?

21 Q. Yes.

22 A. That he gave a speech? I do remember that he gave a
23 speech. I do not remember the specifics of everything
24 that he said.

12:26:59 25 Q. Do you recall that he said he was told that his

1 district was redesigned so that there would be an
2 agriculture and an oil and gas district?

3 **A.** That is part of what he said, as I recall, yes.

4 **Q.** Now, are you willing to waive your legislative
5 privilege and tell us what you did tell him?

6 **A.** No, sir.

7 MR. DUNN: I got disconnected from the Wi-Fi.
8 We're reconnecting.

9 JUDGE GUADERRAMA: Okay. Are you still having
10 problems connecting?

11 MR. DUNN: I just did, Your Honor. Thank you. I
12 just decided to use my phone.

13 JUDGE GUADERRAMA: Oh, you are on a hotspot now?

14 MR. DUNN: Yes, sir. It has got to load a map.
15 It's out here in the universe. I'm trying to get it here.

16 JUDGE GUADERRAMA: We are about 30 minutes away
17 from a break; but if it would help, I suppose we could
18 break early and have IT come up and help you log back in
19 to the system.

20 MR. DUNN: That would be helpful, Your Honor.
21 For the Court's information, the Wi-Fi has started in the
22 last day and a half to mostly not work.

23 JUDGE GUADERRAMA: Okay. So let me have IT come
24 up. Does the government have or is the State having the
25 same problem?

1 MR. HILTON: Your Honor, most of us have been
2 using our laptops without a problem on the attorney Wi-Fi.
3 So -- oh, I stand corrected. We have had a little trouble
4 with that.

12:29:32 5 JUDGE GUADERRAMA: Okay. All right. So let me
6 have -- if it's okay with you, we'll take our lunch recess
7 now. It's 12:30. We'll be back at 1:30. And I'll have
8 the IT people come up and see if they can figure out what
9 is going on.

12:29:47 10 MR. DUNN: Thank you, Your Honor.

11 JUDGE GUADERRAMA: All right.

12 MR. HILTON: Your Honor, I apologize. Just for a
13 matter of timing, we have two other witnesses we intended
14 to do this afternoon. We think we can get them both done.
12:30:01 15 But to the extent we get to 6:00 and have another 10 or 15
16 minutes, does the Court have any scheduling conflict
17 today?

18 JUDGE GUADERRAMA: I don't have a problem going
19 beyond 6:00.

12:30:12 20 JUDGE SMITH: That's fine. We will be here as
21 long as we need to, and I think I mentioned that
22 yesterday. And that is also true of tomorrow.

23 MR. HILTON: I appreciate that, Your Honors. So
24 thank you.

25 JUDGE SMITH: I am not leaving town until

1 Saturday. So --

2 JUDGE GUADERRAMA: All right. We're in recess
3 until 1:30.

4 *(Proceedings adjourned at 12:30 and continued in
5 Volume 7.)*

6 *****

7 Date: February 7, 2022

8 **COURT REPORTER'S CERTIFICATE**

9 I, Laura Wells, certify that the foregoing is a
10 correct transcript from the record of proceedings in the
11 above-entitled matter.

12 _____ /s/ Laura Wells _____

13 Laura Wells, CRR, RMR

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